

**AGREEMENT FOR OMNIBUS ENGINEERING SERVICES  
IN SAN MATEO COUNTY**

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**THIS AGREEMENT**, entered into this \_\_\_\_ day of \_\_\_\_\_ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, CA 94063-1665, hereinafter called '**COUNTY**' and **Mark Thomas & Co. Inc.**, hereinafter called '**CONSULTANT**'.

**W I T N E S S E T H:**

**WHEREAS**, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of **COUNTY**; and

**WHEREAS**, the **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete, hereinafter referred to as the "Project"; and

**WHEREAS**, **CONSULTANT** is a competent Professional Engineer qualified and with employees duly licensed to perform such engineering services in connection with said project, and the parties hereto desire to enter into an Agreement for said engineering services.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO** as follows:

**SECTION 1. SCOPE OF PROJECT**

The **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete. The type of projects may include preliminary study, design and/or construction management of street improvement, slides repairs, drainage system improvement, sanitary sewers improvement, or traffic control and channelization improvements.

The Scope of the Project to be executed by **CONSULTANT** shall be as described in Scope of Services for the Omnibus Engineering Services attached hereto as Exhibit "A", and by reference made as part of this Agreement.

**SECTION 2. GENERAL REQUIREMENTS**

(a) When a project is identified that needs consultant services, the **COUNTY** will issue a preliminary task order for each specific project to the **CONSULTANT**. The **CONSULTANT** will then propose detailed scope of services, a 'not-to-exceed' fee, and a timetable for completing the proposed project. Once an agreement is reached for a specific

project, the **COUNTY** will issue a Final Task Order, herein after called '**Task Order**' for the **CONSULTANT** to proceed.

(b) **CONSULTANT'S** work shall begin within ten (10) days after receiving **COUNTY'S** Notice to Proceed.

(c) The **CONSULTANT** will be responsible to the **COUNTY** in matters pertaining to the contractual obligations, approvals, and interpretations required for this project. The Director of Public Works or the respective designated representative will be the representative of the **COUNTY** for all purposes under this Agreement.

(d) The **CONSULTANT** as part of the services to be performed, will keep the **COUNTY** apprised at all times of the progress of the work.

(e) The **CONSULTANT** shall meet with **COUNTY** to develop a time schedule to be prepared and kept up to date by **CONSULTANT** of the anticipated program to complete services described in Exhibit "A" and any approved final task orders.

(f) Computer software used by the **CONSULTANT** to produce the documents required in this Agreement shall be compatible with the **COUNTY'S** current versions of software. The software currently used by the **COUNTY** is AutoCAD version 14, Softdesk version 8, Microsoft Office 2000 for Windows with Access, Excel and Word. During all phases of this Agreement and at the time of final submittal of report, the **CONSULTANT** shall furnish the **COUNTY** with all electronic media acceptable to the **COUNTY**, in addition to the number of copies specified in the Agreement.

(g) Any Computer Aided Design and Drafting (CADD) documents, drawings, and dated files provided by **CONSULTANT** in accordance with the services covered by this Agreement or as a courtesy to **COUNTY** do not constitute the delivery of **CONSULTANT'S** professional work product. The electronic media may be damaged during transfer or altered so paper prints shall control where there are any differences between the paper prints and the electronic media. **CONSULTANT** makes no warranties either express or implied, of merchantability, applicability, compatibility with **COUNTY'S** computer equipment, or software, or the fitness for any particular purpose for the electronic media of that the electronic media contains no defects or are virus free. Modifications or use by **COUNTY** of any documents or electronics media prepared by **CONSULTANT** for any purpose or project other than the project subject to this Agreement shall be at **COUNTY'S** sole risk. **COUNTY** agrees to indemnify and hold the **CONSULTANT** harmless from any claims, damages, liabilities, or costs, including attorney's fees and costs of defense arising from the **COUNTY'S** reuse or modification of any documents of electronic media prepared by **CONSULTANT** without the prior written consent on **CONSULTANT**.

### **SECTION 3. ENGINEERING SERVICES BY CONSULTANT**

Exhibit "A", attached hereto, includes a list of the type of projects for which the Consultant may be requested to provide services. The Task Order(s) will be issued by the County to the Consultant and will define a specific project with a scope of work to accomplish said project.

In consideration of payment by COUNTY to CONSULTANT, as hereinafter provided, CONSULTANT agrees to perform all Engineering Services described in the approved Task Order(s) necessary to complete the project.

### **SECTION 4. GENERAL OBLIGATIONS OF CONSULTANT**

#### **4.1 CONSULTANT PERSONNEL**

The CONSULTANT shall provide the COUNTY with resumes of key staff members to be assigned to said project including the project manager and project engineer in advance of commencing any engineering services, as outlined under Exhibit "A" of this Agreement and any approved final task orders. Once the COUNTY approves the key staff to be assigned to the project, any substitutions or additions shall be subject to written approval by the COUNTY. The COUNTY reserves the right to reject any personnel the CONSULTANT proposes for use on the project. Approval of the use of staff from work sites other than the work sites of the engineering staff initially identified to work on said project shall be subject to written approval by the COUNTY.

CONSULTANT represents that it is qualified to furnish the services described under this Agreement. CONSULTANT further declares that one or more members or employees of its firm and that of its subconsultants, if so required by the State, if any, are licensed by the State of California to perform their services and that these services will be performed by them or under their direct supervision. CONSULTANT shall furnish to COUNTY for approval, upon execution of this Agreement, a list of all firms or corporations to be employed as subconsultants.

Nothing in this Agreement abrogates the professional responsibilities of the CONSULTANT and/or subconsultants with respect to design defects, errors, omissions, or malpractice.

#### **4.2 NON-DISCRIMINATION**

CONSULTANT, with regard to the work performed under this Agreement, shall not discriminate on the grounds of race, religion, color, national origin, sex, sexual orientation, or age in the selection of CONSULTANT'S employees or in the retention of sub-contractors, including procurement of materials and leases of equipment. The CONSULTANT and sub-contractors shall provide the COUNTY with a copy of their affirmative action program, for review and approval, which should attempt to achieve an ethnic composition of their work forces which approximates the ethnic composition of San Mateo County.

#### **4.3 CORRECTIONS AND/OR REVISIONS**

**CONSULTANT** shall make and provide to **COUNTY** all necessary corrections and/or revisions to the project analysis when it is determined by the Director of Public Works or his designated representative, that such changes are necessary for the project and are due to oversights, omissions or errors of **CONSULTANT**.

Payment to **CONSULTANT** for making any such necessary corrections and/or revisions, addendum, or contract change orders which are determined by the Director of Public Works or the respective designated representative to be due to the oversights, omissions, or errors of the **CONSULTANT** shall be considered as being included in the Basic Services fee to be paid to **CONSULTANT** for Basic Services described in Exhibit "A" of this Agreement and any approved final task orders. It is expressly understood that no additional payment shall be considered or made for these services.

#### **SECTION 5. GENERAL OBLIGATIONS OF COUNTY**

(a) **COUNTY** shall be responsible for providing any available data required by the **CONSULTANT** as stipulated in any approved final task orders.

(b) **COUNTY** shall examine documents submitted by **CONSULTANT** and shall render comments and direction pertaining thereto promptly (up to two weeks or otherwise upon written agreement by **COUNTY** and **CONSULTANT**), as stipulated in approved final Task Orders.

#### **SECTION 6. PAYMENT BY COUNTY**

In consideration of the furnishing of the engineering services by **CONSULTANT**, as herein provided, **COUNTY** agrees to pay **CONSULTANT** for engineering services described in Exhibit "A" of this Agreement and any approved Task Order(s) upon receipt of properly completed monthly invoices for work performed as described in said Task Order(s). The PROJECT TOTAL "Not-to-Exceed" amount will be stipulated in each Task Order. Any cost for services deemed necessary by the **COUNTY** for completion of each Task Order shall be authorized in writing prior to proceeding with the work. Billing rates for services provided under this Agreement shall be as set forth on Exhibit "B" attached hereto and by reference made a part of this Agreement.

The "Not to Exceed" amount for this agreement shall be \$200,000 unless said amount is authorized to be increased by the County Board of Supervisors. Specific projects that may be assigned to the Consultant shall have a Project Total 'Not To Exceed' which shall be stipulated in the Task Order. The sum of individual Task Order fees for multiple projects that may be assigned shall not exceed the Agreement 'Not To Exceed' without prior approval by the County Board of Supervisors.



Payments for services performed are due and payable upon completion and approval of each Task Order by the Director of Public Works or the respective designated representative should the project be accomplished within a single billing period.

#### **6.1 METHOD OF PAYMENT**

Payment shall be made by COUNTY only for services rendered and upon submission of invoice after approval of each Task Order should the project be accomplished within a single billing period. Partial progress payment for items accomplished within each Task Order shall be made by COUNTY upon submission of invoice and approval of the completion of items identified in the Task Order.

#### **6.2 PAYMENT UPON SUSPENSION, ABANDONMENT OF PROJECT, OR TERMINATION OF AGREEMENT**

If any Task Order is suspended for more than thirty (30) calendar days, or abandoned in all or in part, CONSULTANT shall be paid for its services performed prior to receipt of thirty (30) days written notice from COUNTY of such suspension or abandonment, together with reimbursable expenses then due. In the event that the COUNTY abandons any Final Task Order the COUNTY may specifically authorize additional work necessary to properly close out the project.

If this Agreement or any Task Order is suspended or terminated due to fault of CONSULTANT, COUNTY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services that were satisfactorily performed.

#### **6.3 PERFORMANCE OF SERVICES IF CONSULTANT IS NOT DILIGENT IN PERFORMING WORK**

In the event CONSULTANT is not diligent in pursuing the designated services as specified in each Task Order, the Director of Public Works or the respective designated representative may, at his option, seven (7) days after written notice to CONSULTANT, perform any such required engineering services or retain a different consultant to do the same, and the cost associated with having said work completed by a means other than the CONSULTANT will be retained from any sums not yet paid to the CONSULTANT.

### **SECTION 7. PROGRESS AND COMPLETION**

#### **7.1 Notice To Proceed**

The Notice to Proceed for each Task Order shall be a letter, or similar instrument, signed by the Director of Public Works or the respective designated representative, and shall be labeled "Notice to Proceed". Such "Notice to Proceed" shall contain a reference to the work authorized by said Notice.

## **7.2 Time of Completion of each Task**

**CONSULTANT** agrees to perform the engineering services for the type of projects generally described in Exhibit "A" and described specifically by a Task Order within the time limits set forth in the project schedule required by Section 2 (d) of this Agreement. Any change in the scope of services as outlined in the Task Order will require a revised time table.

**COUNTY** agrees to exercise due diligence in performing its tasks to implement the **CONSULTANT'S** time schedule.

## **7.3 COUNTY'S Review and Approval**

Between each phase of work and at critical progress points there shall be a review and approval period by **COUNTY** and other agencies. **COUNTY** shall reject **CONSULTANT'S** submittal if changes and/or comments transmitted to **CONSULTANT** by **COUNTY** during previous review were not addressed by **CONSULTANT** in current submittal.

## **SECTION 8. CHANGES IN WORK**

The Director of Public Works or the respective designated representative may order major changes in scope or character of work in writing which are mutually acceptable, either decreasing or increasing the amount of **CONSULTANT'S** services. In the event that such changes are ordered, **CONSULTANT** shall be entitled to compensation for all work previously directed by **COUNTY** and performed by **CONSULTANT** prior to receipt of notice of change. Increased compensation for major changes shall be determined in accordance with Section 6 of the Agreement, but in no event shall **COUNTY** be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by **COUNTY**.

In the event that major changes are ordered pursuant to this Section, the schedule for progress and completion in Section 7 of this Agreement and compensation under Section 6 of this Agreement, shall be adjusted by negotiation between **CONSULTANT** and **COUNTY**.

## **SECTION 9. RECORDS**

The **CONSULTANT** and all subcontractors under its employ, supervision and/or control shall retain all financial and technical records for inspection for a period of not less than three (3) years from completion and approval of each final task order by the **COUNTY** or upon termination of Agreement.

Records of costs pertaining to the Project shall be kept by **CONSULTANT** on a generally recognized accounting basis and shall be available for **COUNTY'S** review at mutually convenient times.

## **SECTION 10. INTEREST OF CONSULTANT/CONSULTANT INDEPENDENT OF COUNTY**

In accepting this Agreement, **CONSULTANT** covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. **CONSULTANT** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed throughout the term of this Agreement. **CONSULTANT** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **COUNTY**.

In the performance of the engineering services necessary for compliance with this Agreement, **CONSULTANT**, and any of its subconsultants or employees, shall be, and is at all times considered, an Independent Contractor, and is not an agent or employee of **COUNTY**. **CONSULTANT** has, and shall retain, the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his engineering services hereunder to include any and all subconsultants employed for the project described herein. **CONSULTANT** shall be solely responsible for all matters relating to payment of his employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for his own acts and those of his subordinates and employees.

#### **SECTION 11. GENERAL PROVISIONS**

(a) The **CONSULTANT** acknowledges that time is of the essence for all projects defined in approved Task Order(s) and agrees to complete all work within the time frame as stipulated within said Task Order(s) commencing with the receipt of the **COUNTY'S** "Notice to Proceed". Time extensions shall only be approved with prior written approval of the County and failure to complete services according to a mutually agreed upon schedule may be grounds for contract termination.

(b) The **CONSULTANT** upon becoming aware of factors which would result in delays shall be responsible for alerting **COUNTY** to potential delays well in advance in order that possible mitigation measures may be evaluated. **CONSULTANT** shall detail the nature and reasons for potential delays and shall provide the **COUNTY** with possible mitigation measures for consideration.

(c) On all matters pertaining to Task Orders to be performed and the time taken by **CONSULTANT** to perform such services, the decision of the Director of Public Works or the respective designated representative will be final after discussions between **COUNTY** and **CONSULTANT**.

(d) The **CONSULTANT** warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the **CONSULTANT**, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement.

For breach or violation of this warranty, the **COUNTY** shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **SECTION 12. OWNERSHIP OF DOCUMENTS**

All tracings, sketches, plans, specifications, estimates, maps, design calculations, quantity calculations, supporting documents, studies, survey notes, and other documents prepared by **CONSULTANT** or subconsultants under the terms of this Agreement shall be delivered to and become the property of the **COUNTY** without restriction or limitation on their use. However, should **COUNTY** re-use or utilize data or drawings not for their intended use then **COUNTY** shall be solely liable and indemnify **CONSULTANT** against such use. Computer files used by **CONSULTANT** to produce the final set of plans and specifications shall also be delivered in AutoCAD, Softdesk, Access, Excel and Word electronic form on compact disks, 3-1/2" floppy diskettes or other media acceptable to the **COUNTY** at no additional cost and become the property of the **COUNTY**.

## **SECTION 13. TERM OF AGREEMENT**

The Term of this Agreement shall be for two ( 2 ) years from the date of execution of the Agreement by the County. The term of the Agreement may be extended, in one (1) year increments. Said approval to extend the Agreement beyond the initiate two year term of the Agreement shall be accomplished by written notification from the Director of Public Works or his designated representative.

## **SECTION 14. TERMINATION OF AGREEMENT**

The **COUNTY** reserves the right to terminate this Agreement, at no fault of either party to this Agreement, with thirty (30) days written notice by the Director of Public Works or the respective designated representative to the **CONSULTANT**.

The **COUNTY** is under no obligation to employ the **CONSULTANT** for all phases of work as outlined in this Agreement, but reserves the right to employ other consulting firms for the various phases of work. If, in the **COUNTY**'s opinion, the **CONSULTANT** is without cause not diligent in pursuing any of the engineering services provided for in Section 3 of this Agreement, the Director of Public Works or the respective designated representative may, at his option, with no more than seven (7) days after written notice to **CONSULTANT**, terminate this Agreement for engineering services or retain a different consultant to do the same, and retain the appropriate portion of any sums not yet paid to the **CONSULTANT**. Lack of diligence may include but not be limited to: lack of compliance with agreed upon schedule, submittal of partially completed required documents, and lack of quality control.

**CONSULTANT** agrees that failure to carry out the requirements as set forth in this section shall constitute a breach of contract and after appropriate notification, may result in

termination of the Agreement by the **COUNTY** as the **COUNTY** deems appropriate.

## **SECTION 15. NON-ASSIGNMENT OF AGREEMENT**

This Agreement shall not be assigned, sublet or transferred by **CONSULTANT**, in whole, or in part without the written consent of the **COUNTY**. If the **CONSULTANT** elects to subcontract the soil investigation, photogrammetric mapping, traffic engineering, surveying, seismic studies or any other portions of the contract, **CONSULTANT** shall notify the Director of Public Works or the respective designated representative in writing with whom **CONSULTANT** proposes to subcontract. The approval for use of subcontractors for any aspect of the work not initially identified as part of the design team shall only be after written approval from the **COUNTY**, as stipulated in Section 11 of this Agreement.

## **SECTION 16. HOLD HARMLESS AND INSURANCE CLAUSES**

### **16.1 HOLD HARMLESS**

The **CONSULTANT** shall indemnify and save harmless the **COUNTY**, its officers, agents, employees and servants from all claims, suits or actions brought for, or on account of, injuries to or death of any person including **CONSULTANT**, or damage to property of any kind whatsoever and to whomsoever, but only to the extent that they result from the negligent performance of any work required by this Agreement of **CONSULTANT**, provided that this shall not apply to injuries or damage for which **COUNTY** has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of the **CONSULTANT** to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

### **16.2 INSURANCE**

The **CONSULTANT** shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the Director of Public Works. The **CONSULTANT** shall furnish the **COUNTY** with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual liability provision extending the **CONSULTANT'S** coverage to include the contractual liability assumed by the **CONSULTANT** pursuant to this Agreement, subject to the terms, conditions, limitations and exclusions of the policy. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given by **CONSULTANT**, in writing, to the **COUNTY** of any cancellation or modification of the policy(ies) concerning the insurance requirements set forth in this Agreement.

#### **16.2.1 Workers' Compensation and Employer's Liability Insurance**

The **CONSULTANT** shall have in effect during the entire life of this Agreement Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In

signing this Agreement, the **CONSULTANT** makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

### 16.2.2 Liability Insurance

The **CONSULTANT** shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by this Agreement from any and all operations under this Agreement, whether such operations be by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, and in the aggregate, and shall be not less than the amount specified below:

Such insurance shall include:

- (a) Commercial General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

The **CONSULTANT** shall provide proof of continuing professional liability insurance to **COUNTY** in the amount of \$1,000,000 for a period of two (2) years after acceptance by **COUNTY** of the work constructed in conformance with **CONSULTANT'S** design and any subsequent revisions/modifications made by **CONSULTANT**. **COUNTY** and its officers, agents, employees and servants shall be included as additional insured on any such policies of insurance, except professional liability, which shall also contain a provision that the insurance afforded thereby to the **COUNTY**, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, but only to the extent of the **CONSULTANT'S** negligence, and that if the **COUNTY** or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provisions of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the **COUNTY**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

## **SECTION 17. DISPUTES AND REMEDIES**

Any dispute between the parties to this Agreement regarding the interpretation or application of any provision contained herein shall be resolved in a court of competent jurisdiction pursuant to the laws of the State of California. Each party shall bear its own costs and attorneys fees associated with the resolution of the dispute.

## **SECTION 18. JOBSITE SAFETY AND ENVIRONMENTAL PROTECTION**

Neither the professional activities of the **CONSULTANT** nor the presence of the **CONSULTANT** or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety or environmental protection precautions required by any regulatory agencies. The **CONSULTANT** and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The **CONSULTANT** agrees that the General Contractor is solely responsible for jobsite safety, and environmental protection, and warrants that this intent shall be made evident in the **COUNTY'S** Agreement with the General Contractor. The **CONSULTANT** also agrees that the **COUNTY**, the **CONSULTANT** and any other **COUNTY CONSULTANTS** that may be providing services at the construction site shall be indemnified and shall be made additional insured's under the General Contractor=s general liability insurance policy.

## **SECTION 19. Employee Benefits**

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. **Exhibit "C" and "D"**  
**Attached.**

## **SECTION 20. Non-Discrimination**

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

**Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:**

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.



**SECTION 21. NOTIFICATIONS**

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

**COUNTY:**

Neil R. Cullen, Director of Public Works  
(or his designated representative)

COUNTY of San Mateo, DPW  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

**CONSULTANT:**

Richard Tanaka, Principal  
Mark Thomas & Co., Inc.  
90 Archer St.  
San Jose, Ca. 95112-4501

**IN WITNESS WHEREOF**, the parties hereto, by their duly authorized representatives,  
have affixed their hands on the day and year first above written.

**"COUNTY"**

**SAN MATEO COUNTY**

BY

\_\_\_\_\_  
Michael D. Nevin, President  
Board of Supervisors, County of San Mateo

ATTEST:

\_\_\_\_\_  
Clerk of said Board

**"CONSULTANT"**

BY:

  
\_\_\_\_\_

**Exhibit "A"****Engineering Services**

The Consultant shall provide services to include, but not be limited to, preliminary studies, topographic surveys, geotechnical studies, project concept development, design, construction management for a variety of public works type projects. The type public works projects that the consultant may be requested to provide services for could include the following:

1. Street Improvements
2. Land Movement Repair
3. Hydraulic Studies
4. Storm Sewer Improvements
5. Sanitary Sewer Improvements
6. Traffic Control and Circulation
7. Landfill Remediation and Repair
8. Stream/Creek Remediation

The above represent general categories of possible type projects. The Consultant would be assigned a specific project with a specified fee by means of a Project Task Order as described elsewhere in this Agreement.

**Exhibit "B"**

**Hourly Rate Schedule**

SEE ATTACHED

*Notes:*

1. Allowance for Travel Expenses shall be at the rate of \$0.345 per mile.
2. The hourly rates indicated above shall remain in effect for the term of the Agreement, unless adjustments are approved in writing, in advance of accruing cost at new rates, by the County.

**EXHIBIT "E"**

**MARK THOMAS & CO. INC.**

**CHARGE RATE SCHEDULE**

**EFFECTIVE OCTOBER 2, 2000.**

**HOURLY CHARGE RATES**

**PROFESSIONAL AND OFFICE**

Principal/Project Manager	\$ 170.00 per hour
Engineering/Structural Manager II	150.00 per hour
Engineering Manager I	140.00 per hour
Engineer X	135.00 per hour
Engineer IX	122.00 per hour
Engineer VIII	109.00 per hour
Engineer VII	96.00 per hour
Engineer VI	85.00 per hour
Engineer V	76.00 per hour
Engineer IV	70.00 per hour
Engineer III	64.00 per hour
Engineer II	58.00 per hour
Engineer I	52.00 per hour
Land Surveyor	110.00 per hour
Senior Survey Technician	80.00 per hour
Associate Design Technician	92.00 per hour
Engineer Technician II	63.00 per hour
Engineer Technician I	52.00 per hour
Engineering Draftsperson	72.00 per hour
Technical Writer	68.00 per hour
Clerical/Typist II	58.00 per hour
Clerical/Typist I	46.00 per hour
Messenger	35.00 per hour

**FIELD**

2 Person Field Party and Vehicle	\$ 170.00 per hour
3 Person Field Party and Vehicle	230.00 per hour

**SPECIAL SERVICES**

Expert Witness	\$ 200.00 per hour
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**MISCELLANEOUS COSTS**

Reimbursables (Printing and Materials, Mail and Delivery Expenses, Film Expenses, Filing Fees, Parking and Field Expenses)	-Cost plus 5%
Mileage	-\$0.31 per mile
Outside Consultant Fees	-Cost plus 5%

Client/Address:

**Kennedy/Jenks Consultants**

Contract/Proposal Date:

## Schedule of Charges

January 1, 2001

### Personnel Compensation

Classification	Hourly Rate
Drafter/Technician.....	\$69
Designer/Senior Technician.....	\$81
Staff Engineer-Scientist.....	\$77
Senior Staff Engineer-Scientist-Specialist.....	\$88
Engineer-Scientist.....	\$102
Associate Engineer-Scientist.....	\$120
Senior Associate Engineer-Scientist.....	\$131
Senior Engineer-Scientist.....	\$146
Principal Engineer-Scientist.....	\$156
Senior Principal.....	\$170
Project Administrator/Word Processor*.....	\$56
Non-Technical*.....	\$44

\*Time will be charged for preparation of technical reports/materials, and project specific administration and documentation.

The above Hourly Rates include normal and incidental costs such as routine communications, postage and office supplies.

### Direct Expenses

Reimbursement for direct expenses, as listed below, incurred in connection with the work, will be at cost plus ten percent for items such as:

- Maps, photographs, reproductions, printing, equipment rental, and special supplies related to the work.
- Consultants, soils engineers, surveyors, contractors, and other outside services.
- Rented vehicles, local public transportation and taxis, travel and subsistence.
- Specific telecommunications and delivery charges.
- Special fees, insurance, permits, and licenses applicable to the work.
- Outside computer processing, computation, and proprietary programs purchased for the work.

Reimbursement for owned automobiles, except trucks and four-wheel drive vehicles, used in connection with the work will be at the rate of 35 cents per mile. The rate for trucks and four-wheel drive vehicles will be \$25 per day and 40 cents per mile.

Reimbursement for use of microcomputers will be at the rate of \$10 per hour. Reimbursement for use of computerized drafting systems (CADD) will be at the rate of \$20 per hour for microcomputer based systems and \$25 per hour for minicomputer based systems.

Rates for professional staff for legal proceedings or as expert witnesses will be at rates one and one-half times the Hourly Rates specified above.

Other in-house charges for prints and reproduction, equipment usage, laboratory analyses, etc. will be at standard company rates.

Excise and gross receipts taxes, if any, will be added as a direct expense.

The foregoing Schedule of Charges is incorporated into the agreement for the services provided, effective January 1, 2001 through December 31, 2001. After December 31, 2001, invoices will reflect the Schedule of Charges currently in effect.

# **PARIKH CONSULTANTS, INC.**

## **2001 FEE SCHEDULE** **EFFECTIVE THROUGH DECEMBER 2001**

<b>Project Manager/Principal</b>	<b>\$130-140/hour</b>
<b>Senior Engineer/Geologist</b>	<b>\$95-115/hour</b>
<b>Project Engineer/Geologist</b>	<b>\$75-90/hour</b>
<b>Field Engineer/Geologist</b>	<b>\$70-75/hour</b>
<b>Staff Engineer/Geologist</b>	<b>\$70-75/hour</b>
<b>Senior Technician</b>	<b>\$68-70/hour</b>
<b>Lab Technician/Field Technician</b>	<b>\$65-70/hour</b>
<b>Draftsperson</b>	<b>\$45-50/hour</b>
<b>Technical Typing</b>	<b>\$35/hour</b>
<b>CADD (equipment)</b>	<b>\$9/hour</b>
<b>Nuclear Gauge (\$5/test, \$35/day or \$600/month)</b>	<b>\$5/test</b>
<b>Legal Consultation</b>	<b>\$200/hour</b>
<b>Expert Witness</b>	<b>\$250/hour</b>

All time spent over 8 hours per day and Saturdays for field personnel will be charged at 1.5 times the hourly rate. Sunday work will be charged at twice the hourly rate. All charges are portal-to-portal and mileage will be charged at 30 cents per mile. Field time, including travel time, will be charged in a 2-hour increment. Any chargeable time that falls in between these increments will be charged at the rate of the next 2-hour increment.

### **OUTSIDE SERVICES**

Drilling rental of special equipment, and other outside charges will be invoiced at cost plus 15%. Direct contracting/billing and payment will not incur these costs. Outside services, beyond those included in the proposal, will not be performed without prior authorization from the Client.

Miscellaneous reimbursable expenses encountered during the performance of our work, such as printing and other incidentals, will be billed at cost plus 10%.

Accepted By \_\_\_\_\_



**FEHR & PEERS ASSOCIATES, INC.**

**Hourly Billing Rates**

<b>Classification</b>	<b>Hourly Rate</b>
Senior Principal	\$170.00 - \$180.00
Principal	\$135.00 - \$165.00
Senior Associate	\$140.00 - \$165.00
Associate	\$115.00 - \$130.00
Senior Engineer/Planner	\$75.00 - \$125.00
Engineer/Planner	\$70.00 - \$95.00
Senior Technical Support	\$70.00 - \$85.00
Administrative Support	\$45.00 - \$70.00
Technician	\$45.00 - \$65.00
Intern	\$35.00 - \$55.00

*Note:*

Reimbursable expenses are invoiced at cost plus 10% for handling including the following:

Reproduction work at \$.07 per sheet  
Plotter / Computer use at \$10 per hour  
Personal auto mileage at \$.345 per mile  
Communication Expense (Telephone, fax, E-mail, etc.)

*effective 1/27/01*



**Exhibit "C"****Equal Benefits Ordinance****CHAPTER 2.93**ORDINANCE NO 04026

An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code  
to Provide for Non-Discrimination by County Contractors in the  
Provision of Employee Benefits

**WHEREAS**, employee benefits routinely comprise a significant proportion  
of total employee compensation; and

**WHEREAS**, discrimination in the provision of employee benefits between  
employees with domestic partners and employees with spouses results in unequal pay for equal  
work; and

**WHEREAS**, County of San Mateo law prohibits discrimination based on marital status  
and/or sexual orientation; and

**WHEREAS**, it is the County's intent, through the contracting practices outlined herein,  
to equalize the total compensation between similarly situated employees with spouses and  
employees with domestic partners;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO**  
**AS FOLLOWS:**

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new  
Chapter 2. 93 to read as follows:

**Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**

**2.93.010 Definitions.**

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**2.93.020 Discrimination in the provision of benefits prohibited.**

- (a) No Contractor on a County Contract shall discriminate in the provision of

Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;

2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

#### **2.93.030 Application of Chapter.**

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the

Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

#### **2.93.040 Powers and duties of the County Manager.**

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
  - 1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
  - 2. Contractual remedies, including, but not limited to termination of contract.
  - 3. Liquidated damages in the amount of \$2,500.
- (d) Examine Contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

#### **2.93.050 Date of Application.**

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

## Exhibit "D"

## COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form  
(To Be Submitted with Proposal)

## I Vendor Identification

Name of Contractor: Mark Thomas & Co. Inc.

Contact Person: Richard K. Tanaka

Address: 90 Archer Street  
San Jose, California 95112

Phone Number: (408) 453-5373 Fax Number: (408) 453-5390

## II Employees

Does the Contractor have any employees? X Yes        No

Does the Contractor provide benefits to spouses of employees? X Yes        No

\*If the answer to one or both of the above is no, please skip to Section IV.\*


## III Equal Benefits Compliance (Check One)

- ☐ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- ☒ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits for non-bargaining agreement.
- ☐ No, the Contractor does not comply.
- ☒ The Contractor is under a collective bargaining agreement which began on 2/5/01 (date) and expires on 2/28/05 (date).

## IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 12th day of November 20 01 at San Jose, California  
 (City) (State)

  
 \_\_\_\_\_  
 Signature

Richard K. Tanaka  
 \_\_\_\_\_  
 Name (Please Print)

President  
 \_\_\_\_\_  
 Title

94-1451490  
 \_\_\_\_\_  
 Contractor Tax Identification Number

F:\USERS\BRUCEK\WORD\CONSULT\OMNIBUS\ENGAGRE1



ACORD

## CERTIFICATE OF LIABILITY INSURANCE

OP ID CM  
MARKT-1DATE (MM/DD/YY)  
06/29/01

PRODUCER  
Hall & Rambo Insurance Brokers  
License # 0034553  
P.O. Box 1029  
San Jose, CA 95108  
Phone: 408-298-4321 Fax: 408-298-6087

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION  
ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE  
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR  
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

## INSURERS AFFORDING COVERAGE

## INSURED

Mark Thomas & Co., Inc.  
90 Archer Street  
San Jose CA 95112

INSURER A: Fireman's Fund Insurance

INSURER B:

INSURER C:

INSURER D:

INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	MZX80784009	06/30/01	06/30/02	EACH OCCURRENCE	\$ 1,000,000.
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	\$ 100,000.
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 5,000.
					PERSONAL & ADV INJURY	\$ 1,000,000.
					GENERAL AGGREGATE	\$ 2,000,000.
					PRODUCTS - COMP/OP AGG	\$ 2,000,000.
GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					
A	AUTOMOBILE LIABILITY	MZX80784009	06/30/01	06/30/02	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000.
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
<input type="checkbox"/> HIRED AUTOS						
<input type="checkbox"/> NON-OWNED AUTOS						
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
					AUTO ONLY: AGG	\$
	EXCESS LIABILITY				EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
						\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input type="checkbox"/> RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS	OTH-ER
					E.L. EACH ACCIDENT	\$
					E.L. DISEASE - EA EMPLOYEE	\$
					E.L. DISEASE - POLICY LIMIT	\$
	OTHER					

## DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

RE: OMNIBUS ENGINEERING SERVICES - MTCO JOB #51-50001 - ADDITIONAL INSURED  
ENDORSEMENT ATTACHED. - 10 DAY NOTICE NON-PAYMENT.

JUL 02 2001

DEPARTMENT OF PUBLIC WORKS  
COUNTY OF SAN MATEO

## CERTIFICATE HOLDER

Y

ADDITIONAL INSURED; INSURER LETTER:

## CANCELLATION

SANMATC

SAN MATEO COUNTY  
GAIL RADCLIFFE  
555 COUNTY CENTER, 5TH FLOOR  
REDWOOD CITY CA 94063-1665

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Timothy H. Starbird

12/03/01 WED 13:51 FAX 406 430 0001  
POLICY NUMBER: MZX80784009  
FIREMAN'S FUND INS. CO.

HALL & RAMBO  
COMMERCIAL GENERAL LIABILITY

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS - (FORM B)**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART.**

### **SCHEDULE**

**Name of Person or Organization:**

COUNTY OF SAN MATEO

DPW

ATTN: BRUCE E. KIRK

555 COUNTY CENTER 5<sup>TH</sup> FLOOR

REDWOOD CITY, CA 94063-1665

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

REF: #013056-XX COUNTY OF SAN MATEO DEPARTMENT OF PUBLIC WORKS, ENGINEERING SERVICES.  
GENERAL/AUTOMOBILE LIABILITY ADDITIONAL INSURED: COUNTY OF SAN MATEO, ITS OFFICERS, AGENTS  
EMPLOYEES AND SERVANTS.

A MINIMUM 30 DAYS NOTICE OF CANCELLATION CLAUSE APPLIES EXCEPT FOR NON-PAYMENT  
OF PREMIUM. IN THAT CASE, A MINIMUM OF 10 DAYS SHALL BE PROVIDED.

THIS INSURANCE IS PRIMARY WITH RESPECT TO THE ADDITIONAL INSURED. ANY OTHER  
INSURANCE AVAILABLE TO THAT PERSON OR ORGANIZATION IS EXCESS AND NON-  
CONTRIBUTION.

OK  
mjayh

<b>PRODUCER</b> Dealey, Renton & Associates P. O. Box 12675 Oakland, CA 94604-2675 510 465-3090 David Eckman	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.  <b>INSURERS AFFORDING COVERAGE</b> INSURER A: Security Ins. Co. of Hartford INSURER B: INSURER C: INSURER D: INSURER E:
<b>INSURED</b> Mark Thomas & Co., Inc. 90 Archer Street San Jose, CA 95112	COUNTY OF SAN MATEO <div style="text-align: right; font-size: 1.2em; font-weight: bold;">AUG 17 1999</div>

<b>COVERAGES</b> THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS-COMP/OP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE-EA EMPLOYEE \$ E.L. DISEASE-POLICY LIMIT \$
A	OTHER Professional Liability	PL700876	07/01/99	07/01/02	\$1,000,000 per Claim \$1,000,000 Annl Aggr.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

MTC's Job #98076 - On Call Services Per Independent Contractor Agreement.

<b>CERTIFICATE HOLDER</b> County of San Mateo Attn: Bruce E. Kirk Principal Civil Engineer, 10 twin Dolphin Dr. #C200 Redwood City, CA 94065	<b>ADDITIONAL INSURED; INSURER LETTER:</b>  <b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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**STATE  
COMPENSATION  
INSURANCE  
FUND**

P.O. BOX 420807, SAN FRANCISCO, CA 94142-0807

**CERTIFICATE OF WORKERS' COMPENSATION INSURANCE**

NOVEMBER 14, 2001

POLICY NUMBER: 092-01 UNIT 0000131  
CERTIFICATE EXPIRES: 7-1-02

COUNTY OF SAN MATEO  
ATTN: GAIL RADCLIFFE  
555 COUNTY CENTER 5TH FLR  
REDWOOD CITY CA 94063-1665

JOB: PROJECT #51-50001  
OMNIBUS ENGINEERING  
SERVICES

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon <sup>45</sup>~~XX~~ days advance written notice to the employer.

We will also give you <sup>45</sup>~~XX~~ days advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

*Tom Hansen*  
AUTHORIZED REPRESENTATIVE

*K. Bollier*  
PRESIDENT

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: \$1,000,000 PER OCCURRENCE.

ENDORSEMENT #0015 ENTITLED ADDITIONAL INSURED EMPLOYER EFFECTIVE 07/01/01 IS ATTACHED TO AND FORMS A PART OF THIS POLICY.  
NAME OF ADDITIONAL INSURED: COUNTY OF SAN MATEO

ENDORSEMENT #2065 ENTITLED CERTIFICATE HOLDERS' NOTICE EFFECTIVE 07/01/01 IS ATTACHED TO AND FORMS A PART OF THIS POLICY.

EMPLOYER

MARK THOMAS & CO INC  
90 ARCHER ST  
SAN JOSE CA 95112

INSURED: MARK THOMAS & CO., INC.

POLICY: MZX80784009

COMPANY: FIREMAN'S FUND INSURANCE CO. - TERM: 6/30/01-6/30/02

Multicover - CG 71 65 11 96

Policy Amendment(s) Commercial General Liability Coverage Form

2. Blanket Additional Insured

Section II - Who Is an Insured, item 2. is amended to include:

a. Any person or organization that you are required by a written Insured Contract to include as an insured, subject to all of the following provisions:

(1) Coverage is limited to their liability arising out of:

(a) the ownership, maintenance or use of that part of the premises, or land owned by, rented to, or leased to you; or

(b) your work performed for that insured by or for you; or

(c) that insured's financial control of you; or

(d) the maintenance, operation or use by you of equipment leased to you by such person(s) or organization(s); or

(e) a state or political subdivision permit issued to you.

(2) Coverage does not apply to any Occurrence or offense:

(a) which took place before the execution of, or subsequent to the completion or expiration of, the written Insured Contract, or

(b) which takes place after you cease to be a tenant in that premises.

(3) With respect to architects, engineers, or surveyors, coverage does not apply to Bodily Injury, Property Damage, Personal Injury or Advertising Injury arising out of the rendering or the failure to render any professional services by or for you including:

(a) The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and

(b) Supervisory, inspection, or engineering services.

If an Additional Insured endorsement is attached to this policy that specifically names a person or organization as an insured, then this coverage does not apply to that person or organization.

If required by contract, the insurance afforded to the additional insureds is primary insurance, any other insurance available to that person or organization is excess and non-contributing.

A minimum 30 days notice of cancellation clause applies, except for non-payment of premium. In that case, a minimum of 10 days shall be provided.

INSURED: MARK THOMAS & CO., INC.

POLICY: MZX80784009

COMPANY: FIREMAN'S FUND INSURANCE CO. - TERM: 6/30/01-6/30/02

Multicover - CG 71 65 11 96

Policy Amendment(s) Commercial General Liability Coverage Form

2. Blanket Additional Insured

Section II - Who Is an Insured, item 2, is amended to include:

a. Any person or organization that you are required by a written Insured Contract to include as an insured, subject to all of the following provisions:

(1) Coverage is limited to their liability arising out of:

(a) the ownership, maintenance or use of that part of the premises, or land owned by, rented to, or leased to you; or

(b) your work performed for that insured by or for you; or

(c) that insured's financial control of you; or

(d) the maintenance, operation or use by you of equipment leased to you by such person(s) or organization(s); or

(e) a state or political subdivision permit issued to you.

(2) Coverage does not apply to any Occurrence or offense:

(a) which took place before the execution of, or subsequent to the completion or expiration of, the written Insured Contract, or

(b) which takes place after you cease to be a tenant in that premises.

(3) With respect to architects, engineers, or surveyors, coverage does not apply to Bodily Injury, Property Damage, Personal Injury or Advertising Injury arising out of the rendering or the failure to render any professional services by or for you including:

(a) The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and

(b) Supervisory, inspection, or engineering services.

If an Additional Insured endorsement is attached to this policy that specifically names a person or organization as an insured, then this coverage does not apply to that person or organization.

If required by contract, the insurance afforded to the additional insureds is primary insurance, any other insurance available to that person or organization is excess and non-contributing.

Notice of cancellation clause applies, except for non-payment

T.R.D.

**AGREEMENT FOR OMNIBUS ENGINEERING SERVICES  
IN SAN MATEO COUNTY**

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**THIS AGREEMENT**, entered into this \_\_\_\_ day of \_\_\_\_\_ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, CA 94063-1665, hereinafter called 'COUNTY' and Sandis Humber Jones, hereinafter called 'CONSULTANT'.

**W I T N E S S E T H:**

**WHEREAS**, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of COUNTY; and

**WHEREAS**, the COUNTY occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete, hereinafter referred to as the "Project"; and

**WHEREAS**, CONSULTANT is a competent Professional Engineer qualified and with employees duly licensed to perform such engineering services in connection with said project, and the parties hereto desire to enter into an Agreement for said engineering services.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO** as follows:

**SECTION 1. SCOPE OF PROJECT**

The COUNTY occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete. The type of projects may include preliminary study, design and/or construction management of street improvement, slides repairs, drainage system improvement, sanitary sewers improvement, or traffic control and channelization improvements.

The Scope of the Project to be executed by CONSULTANT shall be as described in Scope of Services for the Omnibus Engineering Services attached hereto as Exhibit "A", and by reference made as part of this Agreement.

**SECTION 2. GENERAL REQUIREMENTS**

(a) When a project is identified that needs consultant services, the COUNTY will issue a preliminary task order for each specific project to the CONSULTANT. The CONSULTANT will then propose detailed scope of services, a 'not-to-exceed' fee, and a timetable for completing the proposed project. Once an agreement is reached for a specific

project, the **COUNTY** will issue a Final Task Order, herein after called '**Task Order**' for the **CONSULTANT** to proceed.

(b) **CONSULTANT'S** work shall begin within ten (10) days after receiving **COUNTY'S** Notice to Proceed.

(c) The **CONSULTANT** will be responsible to the **COUNTY** in matters pertaining to the contractual obligations, approvals, and interpretations required for this project. The Director of Public Works or the respective designated representative will be the representative of the **COUNTY** for all purposes under this Agreement.

(d) The **CONSULTANT** as part of the services to be performed, will keep the **COUNTY** apprised at all times of the progress of the work.

(e) The **CONSULTANT** shall meet with **COUNTY** to develop a time schedule to be prepared and kept up to date by **CONSULTANT** of the anticipated program to complete services described in Exhibit "A" and any approved final task orders.

(f) Computer software used by the **CONSULTANT** to produce the documents required in this Agreement shall be compatible with the **COUNTY'S** current versions of software. The software currently used by the **COUNTY** is AutoCAD version 14, Softdesk version 8, Microsoft Office 2000 for Windows with Access, Excel and Word. During all phases of this Agreement and at the time of final submittal of report, the **CONSULTANT** shall furnish the **COUNTY** with all electronic media acceptable to the **COUNTY**, in addition to the number of copies specified in the Agreement.

(g) Any Computer Aided Design and Drafting (CADD) documents, drawings, and dated files provided by **CONSULTANT** in accordance with the services covered by this Agreement or as a courtesy to **COUNTY** do not constitute the delivery of **CONSULTANT'S** professional work product. The electronic media may be damaged during transfer or altered so paper prints shall control where there are any differences between the paper prints and the electronic media. **CONSULTANT** makes no warranties either express or implied, of merchantability, applicability, compatibility with **COUNTY'S** computer equipment, or software, or the fitness for any particular purpose for the electronic media of that the electronic media contains no defects or are virus free. Modifications or use by **COUNTY** of any documents or electronics media prepared by **CONSULTANT** for any purpose or project other than the project subject to this Agreement shall be at **COUNTY'S** sole risk. **COUNTY** agrees to indemnify and hold the **CONSULTANT** harmless from any claims, damages, liabilities, or costs, including attorney's fees and costs of defense arising from the **COUNTY'S** reuse of modification of any documents of electronic media prepared by **CONSULTANT** without the prior written consent on **CONSULTANT**.

### **SECTION 3. ENGINEERING SERVICES BY CONSULTANT**



Exhibit "A", attached hereto, includes a list of the type of projects for which the Consultant may be requested to provide services. The Task Order(s) will be issued by the County to the Consultant and will define a specific project with a scope of work to accomplish said project.

In consideration of payment by COUNTY to CONSULTANT, as hereinafter provided, CONSULTANT agrees to perform all Engineering Services described in the approved Task Order(s) necessary to complete the project.

#### **SECTION 4. GENERAL OBLIGATIONS OF CONSULTANT**

##### **4.1 CONSULTANT PERSONNEL**

The CONSULTANT shall provide the COUNTY with resumes of key staff members to be assigned to said project including the project manager and project engineer in advance of commencing any engineering services, as outlined under Exhibit "A" of this Agreement and any approved final task orders. Once the COUNTY approves the key staff to be assigned to the project, any substitutions or additions shall be subject to written approval by the COUNTY. The COUNTY reserves the right to reject any personnel the CONSULTANT proposes for use on the project. Approval of the use of staff from work sites other than the work sites of the engineering staff initially identified to work on said project shall be subject to written approval by the COUNTY.

CONSULTANT represents that it is qualified to furnish the services described under this Agreement. CONSULTANT further declares that one or more members or employees of its firm and that of its subconsultants, if so required by the State, if any, are licensed by the State of California to perform their services and that these services will be performed by them or under their direct supervision. CONSULTANT shall furnish to COUNTY for approval, upon execution of this Agreement, a list of all firms or corporations to be employed as subconsultants.

Nothing in this Agreement abrogates the professional responsibilities of the CONSULTANT and/or subconsultants with respect to design defects, errors, omissions, or malpractice.

##### **4.2 NON-DISCRIMINATION**

CONSULTANT, with regard to the work performed under this Agreement, shall not discriminate on the grounds of race, religion, color, national origin, sex, sexual orientation, or age in the selection of CONSULTANT'S employees or in the retention of sub-contractors, including procurement of materials and leases of equipment. The CONSULTANT and sub-contractors shall provide the COUNTY with a copy of their affirmative action program, for review and approval, which should attempt to achieve an ethnic composition of their work forces which approximates the ethnic composition of San Mateo County.

##### **4.3 CORRECTIONS AND/OR REVISIONS**

1 A.M.

**CONSULTANT** shall make and provide to **COUNTY** all necessary corrections and/or revisions to the project analysis when it is determined by the Director of Public Works or his designated representative, that such changes are necessary for the project and are due to oversights, omissions or errors of **CONSULTANT**.

Payment to **CONSULTANT** for making any such necessary corrections and/or revisions, addendum, or contract change orders which are determined by the Director of Public Works or the respective designated representative to be due to the oversights, omissions, or errors of the **CONSULTANT** shall be considered as being included in the Basic Services fee to be paid to **CONSULTANT** for Basic Services described in Exhibit "A" of this Agreement and any approved final task orders. It is expressly understood that no additional payment shall be considered or made for these services.

#### **SECTION 5. GENERAL OBLIGATIONS OF COUNTY**

(a) **COUNTY** shall be responsible for providing any available data required by the **CONSULTANT** as stipulated in any approved final task orders.

(b) **COUNTY** shall examine documents submitted by **CONSULTANT** and shall render comments and direction pertaining thereto promptly (up to two weeks or otherwise upon written agreement by **COUNTY** and **CONSULTANT**), as stipulated in approved final Task Orders.

#### **SECTION 6. PAYMENT BY COUNTY**

In consideration of the furnishing of the engineering services by **CONSULTANT**, as herein provided, **COUNTY** agrees to pay **CONSULTANT** for engineering services described in Exhibit "A" of this Agreement and any approved Task Order(s) upon receipt of properly completed monthly invoices for work performed as described in said Task Order(s). The PROJECT TOTAL "Not-to-Exceed" amount will be stipulated in each Task Order. Any cost for services deemed necessary by the **COUNTY** for completion of each Task Order shall be authorized in writing prior to proceeding with the work. Billing rates for services provided under this Agreement shall be as set forth on Exhibit "B" attached hereto and by reference made a part of this Agreement.

The "Not to Exceed" amount for this agreement shall be \$200,000 unless said amount is authorized to be increased by the County Board of Supervisors. Specific projects that may be assigned to the Consultant shall have a Project Total 'Not To Exceed' which shall be stipulated in the Task Order. The sum of individual Task Order fees for multiple projects that may be assigned shall not exceed the Agreement 'Not To Exceed' without prior approval by the County Board of Supervisors.

Payments for services performed are due and payable upon completion and approval of each Task Order by the Director of Public Works or the respective designated representative

should the project be accomplished within a single billing period.

#### **6.1 METHOD OF PAYMENT**

Payment shall be made by COUNTY only for services rendered and upon submission of invoice after approval of each Task Order should the project be accomplished within a single billing period. Partial progress payment for items accomplished within each Task Order shall be made by COUNTY upon submission of invoice and approval of the completion of items identified in the Task Order.

#### **6.2 PAYMENT UPON SUSPENSION, ABANDONMENT OF PROJECT, OR TERMINATION OF AGREEMENT**

If any Task Order is suspended for more than thirty (30) calendar days, or abandoned in all or in part, CONSULTANT shall be paid for its services performed prior to receipt of thirty (30) days written notice from COUNTY of such suspension or abandonment, together with reimbursable expenses then due. In the event that the COUNTY abandons any Final Task Order the COUNTY may specifically authorize additional work necessary to properly close out the project.

If this Agreement or any Task Order is suspended or terminated due to fault of CONSULTANT, COUNTY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services that were satisfactorily performed.

#### **6.3 PERFORMANCE OF SERVICES IF CONSULTANT IS NOT DILIGENT IN PERFORMING WORK**

In the event CONSULTANT is not diligent in pursuing the designated services as specified in each Task Order, the Director of Public Works or the respective designated representative may, at his option, seven (7) days after written notice to CONSULTANT, perform any such required engineering services or retain a different consultant to do the same, and the cost associated with having said work completed by a means other than the CONSULTANT will be retained from any sums not yet paid to the CONSULTANT.

### **SECTION 7. PROGRESS AND COMPLETION**

#### **7.1 Notice To Proceed**

The Notice to Proceed for each Task Order shall be a letter, or similar instrument, signed by the Director of Public Works or the respective designated representative, and shall be labeled "Notice to Proceed". Such "Notice to Proceed" shall contain a reference to the work authorized by said Notice.

#### **7.2 Time of Completion of each Task**

**CONSULTANT** agrees to perform the engineering services for the type of projects generally described in Exhibit "A" and described specifically by a Task Order within the time limits set forth in the project schedule required by Section 2 (d) of this Agreement. Any change in the scope of services as outlined in the Task Order will require a revised time table.

**COUNTY** agrees to exercise due diligence in performing its tasks to implement the **CONSULTANT'S** time schedule.

### **7.3 COUNTY'S Review and Approval**

Between each phase of work and at critical progress points there shall be a review and approval period by **COUNTY** and other agencies. **COUNTY** shall reject **CONSULTANT'S** submittal if changes and/or comments transmitted to **CONSULTANT** by **COUNTY** during previous review were not addressed by **CONSULTANT** in current submittal.

## **SECTION 8. CHANGES IN WORK**

The Director of Public Works or the respective designated representative may order major changes in scope or character of work in writing which are mutually acceptable, either decreasing or increasing the amount of **CONSULTANT'S** services. In the event that such changes are ordered, **CONSULTANT** shall be entitled to compensation for all work previously directed by **COUNTY** and performed by **CONSULTANT** prior to receipt of notice of change. Increased compensation for major changes shall be determined in accordance with Section 6 of the Agreement, but in no event shall **COUNTY** be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by **COUNTY**.

In the event that major changes are ordered pursuant to this Section, the schedule for progress and completion in Section 7 of this Agreement and compensation under Section 6 of this Agreement, shall be adjusted by negotiation between **CONSULTANT** and **COUNTY**.

## **SECTION 9. RECORDS**

The **CONSULTANT** and all subcontractors under its employ, supervision and/or control shall retain all financial and technical records for inspection for a period of not less than three (3) years from completion and approval of each final task order by the **COUNTY** or upon termination of Agreement.

Records of costs pertaining to the Project shall be kept by **CONSULTANT** on a generally recognized accounting basis and shall be available for **COUNTY'S** review at mutually convenient times.

## **SECTION 10. INTEREST OF CONSULTANT/CONSULTANT INDEPENDENT OF COUNTY**

In accepting this Agreement, **CONSULTANT** covenants that it presently has no interest,

and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. **CONSULTANT** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed throughout the term of this Agreement. **CONSULTANT** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **COUNTY**.

In the performance of the engineering services necessary for compliance with this Agreement, **CONSULTANT**, and any of its subconsultants or employees, shall be, and is at all times considered, an Independent Contractor, and is not an agent or employee of **COUNTY**. **CONSULTANT** has, and shall retain, the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his engineering services hereunder to include any and all subconsultants employed for the project described herein. **CONSULTANT** shall be solely responsible for all matters relating to payment of his employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for his own acts and those of his subordinates and employees.

#### **SECTION 11. GENERAL PROVISIONS**

(a) The **CONSULTANT** acknowledges that time is of the essence for all projects defined in approved Task Order(s) and agrees to complete all work within the time frame as stipulated within said Task Order(s) commencing with the receipt of the **COUNTY'S** "Notice to Proceed". Time extensions shall only be approved with prior written approval of the County and failure to complete services according to a mutually agreed upon schedule may be grounds for contract termination.

(b) The **CONSULTANT** upon becoming aware of factors which would result in delays shall be responsible for alerting **COUNTY** to potential delays well in advance in order that possible mitigation measures may be evaluated. **CONSULTANT** shall detail the nature and reasons for potential delays and shall provide the **COUNTY** with possible mitigation measures for consideration.

(c) On all matters pertaining to Task Orders to be performed and the time taken by **CONSULTANT** to perform such services, the decision of the Director of Public Works or the respective designated representative will be final after discussions between **COUNTY** and **CONSULTANT**.

(d) The **CONSULTANT** warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the **CONSULTANT**, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the **COUNTY** shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Agreement price or

consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **SECTION 12. OWNERSHIP OF DOCUMENTS**

All tracings, sketches, plans, specifications, estimates, maps, design calculations, quantity calculations, supporting documents, studies, survey notes, and other documents prepared by **CONSULTANT** or subconsultants under the terms of this Agreement shall be delivered to and become the property of the **COUNTY** without restriction or limitation on their use. However, should **COUNTY** re-use or utilize data or drawings not for their intended use then **COUNTY** shall be solely liable and indemnify **CONSULTANT** against such use. Computer files used by **CONSULTANT** to produce the final set of plans and specifications shall also be delivered in AutoCAD, Softdesk, Access, Excel and Word electronic form on compact disks, 3-1/2" floppy diskettes or other media acceptable to the **COUNTY** at no additional cost and become the property of the **COUNTY**.

## **SECTION 13. TERM OF AGREEMENT**

The Term of this Agreement shall be for two ( 2 ) years from the date of execution of the Agreement by the County. The term of the Agreement may be extended, in one (1) year increments. Said approval to extend the Agreement beyond the initiate two year term of the Agreement shall be accomplished by written notification from the Director of Public Works or his designated representative.

## **SECTION 14. TERMINATION OF AGREEMENT**

The **COUNTY** reserves the right to terminate this Agreement, at no fault of either party to this Agreement, with thirty (30) days written notice by the Director of Public Works or the respective designated representative to the **CONSULTANT**.

The **COUNTY** is under no obligation to employ the **CONSULTANT** for all phases of work as outlined in this Agreement, but reserves the right to employ other consulting firms for the various phases of work. If, in the **COUNTY**'s opinion, the **CONSULTANT** is without cause not diligent in pursuing any of the engineering services provided for in Section 3 of this Agreement, the Director of Public Works or the respective designated representative may, at his option, with no more than seven (7) days after written notice to **CONSULTANT**, terminate this Agreement for engineering services or retain a different consultant to do the same, and retain the appropriate portion of any sums not yet paid to the **CONSULTANT**. Lack of diligence may include but not be limited to: lack of compliance with agreed upon schedule, submittal of partially completed required documents, and lack of quality control.

**CONSULTANT** agrees that failure to carry out the requirements as set forth in this section shall constitute a breach of contract and after appropriate notification, may result in termination of the Agreement by the **COUNTY** as the **COUNTY** deems appropriate.

## **SECTION 15. NON-ASSIGNMENT OF AGREEMENT**

This Agreement shall not be assigned, sublet or transferred by **CONSULTANT**, in whole, or in part without the written consent of the **COUNTY**. If the **CONSULTANT** elects to subcontract the soil investigation, photogrammetric mapping, traffic engineering, surveying, seismic studies or any other portions of the contract, **CONSULTANT** shall notify the Director of Public Works or the respective designated representative in writing with whom **CONSULTANT** proposes to subcontract. The approval for use of subcontractors for any aspect of the work not initially identified as part of the design team shall only be after written approval from the **COUNTY**, as stipulated in Section 11 of this Agreement.

## **SECTION 16. HOLD HARMLESS AND INSURANCE CLAUSES**

### **16.1 HOLD HARMLESS**

The **CONSULTANT** shall indemnify and save harmless the **COUNTY**, its officers, agents, employees and servants from all claims, suits or actions brought for, or on account of, injuries to or death of any person including **CONSULTANT**, or damage to property of any kind whatsoever and to whomsoever, but only to the extent that they result from the negligent performance of any work required by this Agreement of **CONSULTANT**, provided that this shall not apply to injuries or damage for which **COUNTY** has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of the **CONSULTANT** to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

### **16.2 INSURANCE**

The **CONSULTANT** shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the Director of Public Works. The **CONSULTANT** shall furnish the **COUNTY** with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual liability provision extending the **CONSULTANT'S** coverage to include the contractual liability assumed by the **CONSULTANT** pursuant to this Agreement, subject to the terms, conditions, limitations and exclusions of the policy. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given by **CONSULTANT**, in writing, to the **COUNTY** of any cancellation or modification of the policy(ies) concerning the insurance requirements set forth in this Agreement.

#### **16.2.1 Workers' Compensation and Employer's Liability Insurance**

The **CONSULTANT** shall have in effect during the entire life of this Agreement Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In

signing this Agreement, the **CONSULTANT** makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

### 16.2.2 Liability Insurance

The **CONSULTANT** shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by this Agreement from any and all operations under this Agreement, whether such operations be by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, and in the aggregate, and shall be not less than the amount specified below:

Such insurance shall include:

- (a) Commercial General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

The **CONSULTANT** shall provide proof of continuing professional liability insurance to **COUNTY** in the amount of \$1,000,000 for a period of two (2) years after acceptance by **COUNTY** of the work constructed in conformance with **CONSULTANT'S** design and any subsequent revisions/modifications made by **CONSULTANT**. **COUNTY** and its officers, agents, employees and servants shall be included as additional insured on any such policies of insurance, except professional liability, which shall also contain a provision that the insurance afforded thereby to the **COUNTY**, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, but only to the extent of the **CONSULTANT'S** negligence, and that if the **COUNTY** or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provisions of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the **COUNTY**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.



## **SECTION 17. DISPUTES AND REMEDIES**

Any dispute between the parties to this Agreement regarding the interpretation or application of any provision contained herein shall be resolved in a court of competent jurisdiction pursuant to the laws of the State of California. Each party shall bear its own costs and attorneys fees associated with the resolution of the dispute.

## **SECTION 18. JOBSITE SAFETY AND ENVIRONMENTAL PROTECTION**

Neither the professional activities of the **CONSULTANT** nor the presence of the **CONSULTANT** or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety or environmental protection precautions required by any regulatory agencies. The **CONSULTANT** and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The **CONSULTANT** agrees that the General Contractor is solely responsible for jobsite safety, and environmental protection, and warrants that this intent shall be made evident in the **COUNTY'S** Agreement with the General Contractor. The **CONSULTANT** also agrees that the **COUNTY**, the **CONSULTANT** and any other **COUNTY CONSULTANTS** that may be providing services at the construction site shall be indemnified and shall be made additional insured's under the General Contractor's general liability insurance policy.

## **SECTION 19. Employee Benefits**

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. Exhibit "C" and "D"  
Attached.

## **SECTION 20. Non-Discrimination**

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

**Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:**

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

**SECTION 21. NOTIFICATIONS**

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

**COUNTY:**

Neil R. Cullen, Director of Public Works  
(or his designated representative)  
COUNTY of San Mateo, DPW  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

**CONSULTANT:**

Kenneth N. Olcott, P.E.  
Vice President  
Sandis Humber Jones  
605 Castro St.  
P.O. Box 640  
Mountain View, Ca. 94042-0640

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,  
have affixed their hands on the day and year first above written.

"COUNTY"

SAN MATEO COUNTY

BY

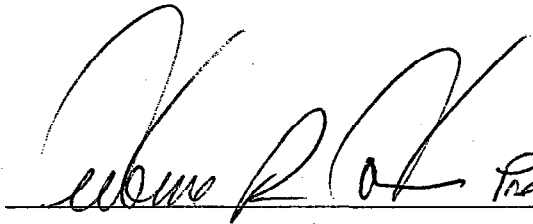
\_\_\_\_\_  
Michael D. Nevin, President  
Board of Supervisors, County of San Mateo

ATTEST:

\_\_\_\_\_  
Clerk of said Board

"CONSULTANT"

BY:

 President

## **Exhibit "A"**

### **Engineering Services**

The Consultant shall provide services to include, but not be limited to, preliminary studies, topographic surveys, geotechnical studies, project concept development, design, construction management for a variety of public works type projects. The type public works projects that the consultant may be requested to provide services for could include the following:

1. Street Improvements
2. Land Movement Repair
3. Hydraulic Studies
4. Storm Sewer Improvements
5. Sanitary Sewer Improvements
6. Traffic Control and Circulation
7. Landfill Remediation and Repair
8. Stream/Creek Remediation

The above represent general categories of possible type projects. The Consultant would be assigned a specific project with a specified fee by means of a Project Task Order as described elsewhere in this Agreement.

**Exhibit "B"****Hourly Rate Schedule**

SEE ATTACHED

*Notes:*

1. Allowance for Travel Expenses shall be at the rate of \$0.345 per mile.
2. The hourly rates indicated above shall remain in effect for the term of the Agreement, unless adjustments are approved in writing, in advance of accruing cost at new rates, by the County.

# SANDIS HUMBER JONES

CIVIL ENGINEERS SURVEYORS PLANNERS

## STANDARD HOURLY CHARGE RATES

### MOUNTAIN VIEW OFFICE

Effective September 1, 2001 through August 31, 2002

### ENGINEERING SERVICES

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Clerical		\$50.00
Computer / Engineer Technician	Level I	\$55.00
	Level II	\$70.00
	Level III	\$85.00
Design Engineer	Level I	\$65.00
	Level II	\$75.00
	Level III	\$85.00
Project Engineer	Level I	\$85.00
	Level II	\$95.00
	Level III	\$110.00
Senior Engineer		\$135.00
Associate Principal		\$150.00
Principal		\$180.00

### SURVEYING SERVICES

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Computer / Surveying Technician	Level I	\$55.00
	Level II	\$70.00
	Level III	\$85.00
Project Surveyor	Level I	\$85.00
	Level II	\$95.00
	Level III	\$105.00
Senior Project Surveyor		\$135.00
Chief of Survey Crew		\$105.00
2-Person Survey Crew		\$190.00
2-Person Survey Crew with Apprentice		\$235.00
3-Person Survey Crew		\$270.00

### SPECIAL SERVICES

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Expert Witness	(4 hours min.)	\$250.00
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### REIMBURSABLE COSTS

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Printing, Monuments, Materials, Outside Services and Consultants, Courier/Delivery Services, Express/Overnight Mail, Travel/per diem, Agency Fees Advanced, etc., at Cost Plus 15%.

### OVERTIME

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All overtime charges are invoiced on the basis of one and one-half times the above rates.

605 Castro Street

P.O. Box 640

Mountain View, CA

94042-0640

Tel. (650) 969-6900

Fax (650) 969-6472

Sacramento, CA

(916) 929-9290

Salinas, CA

(831) 757-2927

Oakland, CA

(510) 873-8866

www.shj-co.com

**Exhibit "C"**

**Equal Benefits Ordinance**

**CHAPTER 2.93**

ORDINANCE NO 04026

An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code  
to Provide for Non-Discrimination by County Contractors in the  
Provision of Employee Benefits

**WHEREAS**, employee benefits routinely comprise a significant proportion  
of total employee compensation; and

**WHEREAS**, discrimination in the provision of employee benefits between  
employees with domestic partners and employees with spouses results in unequal pay for equal  
work; and

**WHEREAS**, County of San Mateo law prohibits discrimination based on marital status  
and/or sexual orientation; and

**WHEREAS**, it is the County's intent, through the contracting practices outlined herein,  
to equalize the total compensation between similarly situated employees with spouses and  
employees with domestic partners;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO**  
**AS FOLLOWS:**

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new  
Chapter 2. 93 to read as follows:

**Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**

**2.93.010 Definitions.**



For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**2.93.020 Discrimination in the provision of benefits prohibited.**

- (a) No Contractor on a County Contract shall discriminate in the provision of

Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;

2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

#### **2.93.030 Application of Chapter.**

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the

Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

#### **2.93.040 Powers and duties of the County Manager.**

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
  - 1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
  - 2. Contractual remedies, including, but not limited to termination of contract.
  - 3. Liquidated damages in the amount of \$2,500.
- (d) Examine Contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

- (f) Allow for remedial action after a finding of non-compliance, as specified by rule;
- (g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

**2.93.050 Date of Application.**

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

Exhibit "D"

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form  
(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: Sandis Humber Jones  
Contact Person: Jean Granato  
Address: 605 Castro Street  
Mountain View Ca 94042  
Phone Number: 650-969-6900 Fax Number: 650-969-6472

II Employees

Does the Contractor have any employees? ☒ Yes ☐ No  
Does the Contractor provide benefits to spouses of employees? ☒ Yes ☐ No

\*If the answer to one or both of the above is no, please skip to Section IV.\*

III Equal Benefits Compliance (Check One)

- ☒ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- ☐ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- ☐ No, the Contractor does not comply.
- ☐ The Contractor is under a collective bargaining agreement which began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 27 day of November 2001 at Mountain View CA  
(City) (State)

Jean Granato  
Signature  
Chief Financial Officer  
Title

Jean Granato  
Name (Please Print)  
94-1724242  
Contractor Tax Identification Number

F:\USERS\BRUCEK\WORD\CONSULT\OMNIBUS\ENGAGRE1

**ACORD™ CERTIFICATE OF LIABILITY INSURANCE**DATE (MM/DD/YY)  
12/4/01

<b>PRODUCER</b> Dealey, Renton & Associates P. O. Box 12675 Oakland, CA 94604-2675 510 465-3090	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
<b>INSURED</b> Sandis Humber Jones Civil Engineers Surveyors Planners P. O. Box 640 Mountain View, CA 94042	<b>INSURERS AFFORDING COVERAGE</b> INSURER A: Hartford Casualty Insurance Co. INSURER B: Hartford Fire Insurance Co. INSURER C: American Motorists Ins. Co. INSURER D: Security Ins. Co. of Hartford INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO. FCT <input type="checkbox"/> LOC	57SBKLM8902	03/03/01	03/03/02	EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> Drive Other Car	57UENGG1017	03/03/01	03/03/02	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				EACH OCCURRENCE \$ AGGREGATE \$ DEDUCTIBLE \$ RETENTION \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	7BG10491300	03/03/01	03/03/02	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	<b>OTHER Professional Liability</b>	AEE0302563	03/03/01	03/03/02	\$1,000,000 per claim \$2,000,000 annl aggr.

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**

Ref: SHJ 201218. Omnibus Engineering Agreement - 2001.

County of San Mateo and its officers, agents, employees and servants are additional insureds as respects general and auto liability. Insurance is primary.

<b>CERTIFICATE HOLDER</b> County of San Mateo Department of Public Works 555 County Center, 5th Floor Redwood City, CA 94063-1665	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <i>Edith C. Banour</i>
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POLICY NUMBER: 57SBKLM8902

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **ADDITIONAL INSURED - DESIGNATED PERSON or ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

County of San Mateo  
Department of Public Works  
555 County Center , 5th Floor  
Redwood City, CA 94063-1665

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your operations or premises owned by or rented to you.

Ref: SHJ 201218. Omnibus Engineering Agreement - 2001. County of San Mateo and its officers, agents, employees and servants are additional insureds as respects general and auto liability. Insurance is primary.

PRIMARY INSURANCE:

IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY  
AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED  
SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS  
INSURANCE.

**AGREEMENT FOR OMNIBUS ENGINEERING SERVICES  
IN SAN MATEO COUNTY**

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THIS AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, CA 94063-1665, hereinafter called 'COUNTY' and Korve Engineering, hereinafter called 'CONSULTANT'.

**W I T N E S S E T H**

WHEREAS, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of COUNTY; and

WHEREAS, the COUNTY occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete, hereinafter referred to as the "Project"; and

WHEREAS, CONSULTANT is a competent Professional Engineer qualified and with employees duly licensed to perform such engineering services in connection with said project, and the parties hereto desire to enter into an Agreement for said engineering services.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO as follows:

**SECTION 1. SCOPE OF PROJECT**

The COUNTY occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete. The type of projects may include preliminary study, design and/or construction management of street improvement, slides repairs, drainage system improvement, sanitary sewers improvement, or traffic control and channelization improvements.

The Scope of the Project to be executed by CONSULTANT shall be as described in Scope of Services for the Omnibus Engineering Services attached hereto as Exhibit "A", and by reference made as part of this Agreement.

**SECTION 2. GENERAL REQUIREMENTS**

(a) When a project is identified that needs consultant services, the COUNTY will issue a preliminary task order for each specific project to the CONSULTANT. The CONSULTANT will then propose detailed scope of services, a 'not-to-exceed' fee, and a timetable for completing the proposed project. Once an agreement is reached for a specific

project, the **COUNTY** will issue a Final Task Order, herein after called 'Task Order' for the **CONSULTANT** to proceed.

(b) **CONSULTANT'S** work shall begin within ten (10) days after receiving **COUNTY'S** Notice to Proceed.

(c) The **CONSULTANT** will be responsible to the **COUNTY** in matters pertaining to the contractual obligations, approvals, and interpretations required for this project. The Director of Public Works or the respective designated representative will be the representative of the **COUNTY** for all purposes under this Agreement.

(d) The **CONSULTANT** as part of the services to be performed, will keep the **COUNTY** apprised at all times of the progress of the work.

(e) The **CONSULTANT** shall meet with **COUNTY** to develop a time schedule to be prepared and kept up to date by **CONSULTANT** of the anticipated program to complete services described in Exhibit "A" and any approved final task orders.

(f) Computer software used by the **CONSULTANT** to produce the documents required in this Agreement shall be compatible with the **COUNTY'S** current versions of software. The software currently used by the **COUNTY** is AutoCAD version 14, Softdesk version 8, Microsoft Office 2000 for Windows with Access, Excel and Word. During all phases of this Agreement and at the time of final submittal of report, the **CONSULTANT** shall furnish the **COUNTY** with all electronic media acceptable to the **COUNTY**, in addition to the number of copies specified in the Agreement.

(g) Any Computer Aided Design and Drafting (CADD) documents, drawings, and dated files provided by **CONSULTANT** in accordance with the services covered by this Agreement or as a courtesy to **COUNTY** do not constitute the delivery of **CONSULTANT'S** professional work product. The electronic media may be damaged during transfer or altered so paper prints shall control where there are any differences between the paper prints and the electronic media. **CONSULTANT** makes no warranties either express or implied, of merchantability, applicability, compatibility with **COUNTY'S** computer equipment, or software, or the fitness for any particular purpose for the electronic media of that the electronic media contains no defects or are virus free. Modifications or use by **COUNTY** of any documents or electronics media prepared by **CONSULTANT** for any purpose or project other than the project subject to this Agreement shall be at **COUNTY'S** sole risk. **COUNTY** agrees to indemnify and hold the **CONSULTANT** harmless from any claims, damages, liabilities, or costs, including attorney's fees and costs of defense arising from the **COUNTY'S** reuse of modification of any documents of electronic media prepared by **CONSULTANT** without the prior written consent on **CONSULTANT**.

### **SECTION 3. ENGINEERING SERVICES BY CONSULTANT**

Exhibit "A", attached hereto, includes a list of the type of projects for which the Consultant may be requested to provide services. The Task Order(s) will be issued by the County to the Consultant and will define a specific project with a scope of work to accomplish said project.

In consideration of payment by COUNTY to CONSULTANT, as hereinafter provided, CONSULTANT agrees to perform all Engineering Services described in the approved Task Order(s) necessary to complete the project.

### **SECTION 4. GENERAL OBLIGATIONS OF CONSULTANT**

#### **4.1 CONSULTANT PERSONNEL**

The CONSULTANT shall provide the COUNTY with resumes of key staff members to be assigned to said project including the project manager and project engineer in advance of commencing any engineering services, as outlined under Exhibit "A" of this Agreement and any approved final task orders. Once the COUNTY approves the key staff to be assigned to the project, any substitutions or additions shall be subject to written approval by the COUNTY. The COUNTY reserves the right to reject any personnel the CONSULTANT proposes for use on the project. Approval of the use of staff from work sites other than the work sites of the engineering staff initially identified to work on said project shall be subject to written approval by the COUNTY.

CONSULTANT represents that it is qualified to furnish the services described under this Agreement. CONSULTANT further declares that one or more members or employees of its firm and that of its subconsultants, if so required by the State, if any, are licensed by the State of California to perform their services and that these services will be performed by them or under their direct supervision. CONSULTANT shall furnish to COUNTY for approval, upon execution of this Agreement, a list of all firms or corporations to be employed as subconsultants.

Nothing in this Agreement abrogates the professional responsibilities of the CONSULTANT and/or subconsultants with respect to design defects, errors, omissions, or malpractice.

#### **4.2 NON-DISCRIMINATION**

CONSULTANT, with regard to the work performed under this Agreement, shall not discriminate on the grounds of race, religion, color, national origin, sex, sexual orientation, or age in the selection of CONSULTANT'S employees or in the retention of sub-contractors, including procurement of materials and leases of equipment. The CONSULTANT and sub-contractors shall provide the COUNTY with a copy of their affirmative action program, for review and approval, which should attempt to achieve an ethnic composition of their work forces which approximates the ethnic composition of San Mateo County.

#### 4.3 CORRECTIONS AND/OR REVISIONS

**CONSULTANT** shall make and provide to **COUNTY** all necessary corrections and/or revisions to the project analysis when it is determined by the Director of Public Works or his designated representative, that such changes are necessary for the project and are due to oversights, omissions or errors of **CONSULTANT**.

Payment to **CONSULTANT** for making any such necessary corrections and/or revisions, addendum, or contract change orders which are determined by the Director of Public Works or the respective designated representative to be due to the oversights, omissions, or errors of the **CONSULTANT** shall be considered as being included in the Basic Services fee to be paid to **CONSULTANT** for Basic Services described in Exhibit "A" of this Agreement and any approved final task orders. It is expressly understood that no additional payment shall be considered or made for these services.

#### SECTION 5. GENERAL OBLIGATIONS OF COUNTY

(a) **COUNTY** shall be responsible for providing any available data required by the **CONSULTANT** as stipulated in any approved final task orders.

(b) **COUNTY** shall examine documents submitted by **CONSULTANT** and shall render comments and direction pertaining thereto promptly (up to two weeks or otherwise upon written agreement by **COUNTY** and **CONSULTANT**), as stipulated in approved final Task Orders.

#### SECTION 6. PAYMENT BY COUNTY

In consideration of the furnishing of the engineering services by **CONSULTANT**, as herein provided, **COUNTY** agrees to pay **CONSULTANT** for engineering services described in Exhibit "A" of this Agreement and any approved Task Order(s) upon receipt of properly completed monthly invoices for work performed as described in said Task Order(s). The PROJECT TOTAL "Not-to-Exceed" amount will be stipulated in each Task Order. Any cost for services deemed necessary by the **COUNTY** for completion of each Task Order shall be authorized in writing prior to proceeding with the work. Billing rates for services provided under this Agreement shall be as set forth on Exhibit "B" attached hereto and by reference made a part of this Agreement.

The "Not to Exceed" amount for this agreement shall be \$200,000 unless said amount is authorized to be increased by the County Board of Supervisors. Specific projects that may be assigned to the Consultant shall have a Project Total 'Not To Exceed' which shall be stipulated in the Task Order. The sum of individual Task Order fees for multiple projects that may be assigned shall not exceed the Agreement 'Not To Exceed' without prior approval by the County Board of Supervisors.

Payments for services performed are due and payable upon completion and approval of each Task Order by the Director of Public Works or the respective designated representative should the project be accomplished within a single billing period.

#### **6.1 METHOD OF PAYMENT**

Payment shall be made by COUNTY only for services rendered and upon submission of invoice after approval of each Task Order should the project be accomplished within a single billing period. Partial progress payment for items accomplished within each Task Order shall be made by COUNTY upon submission of invoice and approval of the completion of items identified in the Task Order.

#### **6.2 PAYMENT UPON SUSPENSION, ABANDONMENT OF PROJECT, OR TERMINATION OF AGREEMENT**

If any Task Order is suspended for more than thirty (30) calendar days, or abandoned in all or in part, CONSULTANT shall be paid for its services performed prior to receipt of thirty (30) days written notice from COUNTY of such suspension or abandonment, together with reimbursable expenses then due. In the event that the COUNTY abandons any Final Task Order the COUNTY may specifically authorize additional work necessary to properly close out the project.

If this Agreement or any Task Order is suspended or terminated due to fault of CONSULTANT, COUNTY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services that were satisfactorily performed.

#### **6.3 PERFORMANCE OF SERVICES IF CONSULTANT IS NOT DILIGENT IN PERFORMING WORK**

In the event CONSULTANT is not diligent in pursuing the designated services as specified in each Task Order, the Director of Public Works or the respective designated representative may, at his option, seven (7) days after written notice to CONSULTANT, perform any such required engineering services or retain a different consultant to do the same, and the cost associated with having said work completed by a means other than the CONSULTANT will be retained from any sums not yet paid to the CONSULTANT.

### **SECTION 7. PROGRESS AND COMPLETION**

#### **7.1 Notice To Proceed**

The Notice to Proceed for each Task Order shall be a letter, or similar instrument, signed by the Director of Public Works or the respective designated representative, and shall be labeled "Notice to Proceed". Such "Notice to Proceed" shall contain a reference to the work authorized by said Notice.

## **7.2 Time of Completion of each Task**

**CONSULTANT** agrees to perform the engineering services for the type of projects generally described in Exhibit "A" and described specifically by a Task Order within the time limits set forth in the project schedule required by Section 2 (d) of this Agreement. Any change in the scope of services as outlined in the Task Order will require a revised time table.

**COUNTY** agrees to exercise due diligence in performing its tasks to implement the **CONSULTANT'S** time schedule.

## **7.3 COUNTY'S Review and Approval**

Between each phase of work and at critical progress points there shall be a review and approval period by **COUNTY** and other agencies. **COUNTY** shall reject **CONSULTANT'S** submittal if changes and/or comments transmitted to **CONSULTANT** by **COUNTY** during previous review were not addressed by **CONSULTANT** in current submittal.

## **SECTION 8. CHANGES IN WORK**

The Director of Public Works or the respective designated representative may order major changes in scope or character of work in writing which are mutually acceptable, either decreasing or increasing the amount of **CONSULTANT'S** services. In the event that such changes are ordered, **CONSULTANT** shall be entitled to compensation for all work previously directed by **COUNTY** and performed by **CONSULTANT** prior to receipt of notice of change. Increased compensation for major changes shall be determined in accordance with Section 6 of the Agreement, but in no event shall **COUNTY** be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by **COUNTY**.

In the event that major changes are ordered pursuant to this Section, the schedule for progress and completion in Section 7 of this Agreement and compensation under Section 6 of this Agreement, shall be adjusted by negotiation between **CONSULTANT** and **COUNTY**.

## **SECTION 9. RECORDS**

The **CONSULTANT** and all subcontractors under its employ, supervision and/or control shall retain all financial and technical records for inspection for a period of not less than three (3) years from completion and approval of each final task order by the **COUNTY** or upon termination of Agreement.

Records of costs pertaining to the Project shall be kept by **CONSULTANT** on a generally recognized accounting basis and shall be available for **COUNTY'S** review at mutually convenient times.

## **SECTION 10. INTEREST OF CONSULTANT/CONSULTANT INDEPENDENT OF COUNTY**

In accepting this Agreement, **CONSULTANT** covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. **CONSULTANT** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed throughout the term of this Agreement. **CONSULTANT** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **COUNTY**.

In the performance of the engineering services necessary for compliance with this Agreement, **CONSULTANT**, and any of its subconsultants or employees, shall be, and is at all times considered, an Independent Contractor, and is not an agent or employee of **COUNTY**. **CONSULTANT** has, and shall retain, the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his engineering services hereunder to include any and all subconsultants employed for the project described herein. **CONSULTANT** shall be solely responsible for all matters relating to payment of his employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for his own acts and those of his subordinates and employees.

#### **SECTION 11. GENERAL PROVISIONS**

(a) The **CONSULTANT** acknowledges that time is of the essence for all projects defined in approved Task Order(s) and agrees to complete all work within the time frame as stipulated within said Task Order(s) commencing with the receipt of the **COUNTY'S** "Notice to Proceed". Time extensions shall only be approved with prior written approval of the County and failure to complete services according to a mutually agreed upon schedule may be grounds for contract termination.

(b) The **CONSULTANT** upon becoming aware of factors which would result in delays shall be responsible for alerting **COUNTY** to potential delays well in advance in order that possible mitigation measures may be evaluated. **CONSULTANT** shall detail the nature and reasons for potential delays and shall provide the **COUNTY** with possible mitigation measures for consideration.

(c) On all matters pertaining to Task Orders to be performed and the time taken by **CONSULTANT** to perform such services, the decision of the Director of Public Works or the respective designated representative will be final after discussions between **COUNTY** and **CONSULTANT**.

(d) The **CONSULTANT** warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the **CONSULTANT**, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement.



For breach or violation of this warranty, the **COUNTY** shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **SECTION 12. OWNERSHIP OF DOCUMENTS**

All tracings, sketches, plans, specifications, estimates, maps, design calculations, quantity calculations, supporting documents, studies, survey notes, and other documents prepared by **CONSULTANT** or subconsultants under the terms of this Agreement shall be delivered to and become the property of the **COUNTY** without restriction or limitation on their use. However, should **COUNTY** re-use or utilize data or drawings not for their intended use then **COUNTY** shall be solely liable and indemnify **CONSULTANT** against such use. Computer files used by **CONSULTANT** to produce the final set of plans and specifications shall also be delivered in AutoCAD, Softdesk, Access, Excel and Word electronic form on compact disks, 3-1/2" floppy diskettes or other media acceptable to the **COUNTY** at no additional cost and become the property of the **COUNTY**.

## **SECTION 13. TERM OF AGREEMENT**

The Term of this Agreement shall be for two ( 2 ) years from the date of execution of the Agreement by the County. The term of the Agreement may be extended, in one (1) year increments. Said approval to extend the Agreement beyond the initiate two year term of the Agreement shall be accomplished by written notification from the Director of Public Works or his designated representative.

## **SECTION 14. TERMINATION OF AGREEMENT**

The **COUNTY** reserves the right to terminate this Agreement, at no fault of either party to this Agreement, with thirty (30) days written notice by the Director of Public Works or the respective designated representative to the **CONSULTANT**.

The **COUNTY** is under no obligation to employ the **CONSULTANT** for all phases of work as outlined in this Agreement, but reserves the right to employ other consulting firms for the various phases of work. If, in the **COUNTY**'s opinion, the **CONSULTANT** is without cause not diligent in pursuing any of the engineering services provided for in Section 3 of this Agreement, the Director of Public Works or the respective designated representative may, at his option, with no more than seven (7) days after written notice to **CONSULTANT**, terminate this Agreement for engineering services or retain a different consultant to do the same, and retain the appropriate portion of any sums not yet paid to the **CONSULTANT**. Lack of diligence may include but not be limited to: lack of compliance with agreed upon schedule, submittal of partially completed required documents, and lack of quality control.

**CONSULTANT** agrees that failure to carry out the requirements as set forth in this section shall constitute a breach of contract and after appropriate notification, may result in

termination of the Agreement by the COUNTY as the COUNTY deems appropriate.

## **SECTION 15. NON-ASSIGNMENT OF AGREEMENT**

This Agreement shall not be assigned, sublet or transferred by CONSULTANT, in whole, or in part without the written consent of the COUNTY. If the CONSULTANT elects to subcontract the soil investigation, photogrammetric mapping, traffic engineering, surveying, seismic studies or any other portions of the contract, CONSULTANT shall notify the Director of Public Works or the respective designated representative in writing with whom CONSULTANT proposes to subcontract. The approval for use of subcontractors for any aspect of the work not initially identified as part of the design team shall only be after written approval from the COUNTY, as stipulated in Section 11 of this Agreement.

## **SECTION 16. HOLD HARMLESS AND INSURANCE CLAUSES**

### **16.1 HOLD HARMLESS**

The CONSULTANT shall indemnify and save harmless the COUNTY, its officers, agents, employees and servants from all claims, suits or actions brought for, or on account of, injuries to or death of any person including CONSULTANT, or damage to property of any kind whatsoever and to whomsoever, but only to the extent that they result from the negligent performance of any work required by this Agreement of CONSULTANT, provided that this shall not apply to injuries or damage for which COUNTY has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of the CONSULTANT to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

### **16.2 INSURANCE**

The CONSULTANT shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the Director of Public Works. The CONSULTANT shall furnish the COUNTY with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual liability provision extending the CONSULTANT'S coverage to include the contractual liability assumed by the CONSULTANT pursuant to this Agreement, subject to the terms, conditions, limitations and exclusions of the policy. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given by CONSULTANT, in writing, to the COUNTY of any cancellation or modification of the policy(ies) concerning the insurance requirements set forth in this Agreement.

#### **16.2.1 Workers' Compensation and Employer's Liability Insurance**

The CONSULTANT shall have in effect during the entire life of this Agreement Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In

signing this Agreement, the **CONSULTANT** makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

### 16.2.2 Liability Insurance

The **CONSULTANT** shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by this Agreement from any and all operations under this Agreement, whether such operations be by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, and in the aggregate, and shall be not less than the amount specified below:

Such insurance shall include:

- (a) Commercial General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

The **CONSULTANT** shall provide proof of continuing professional liability insurance to **COUNTY** in the amount of \$1,000,000 for a period of two (2) years after acceptance by **COUNTY** of the work constructed in conformance with **CONSULTANT'S** design and any subsequent revisions/modifications made by **CONSULTANT**. **COUNTY** and its officers, agents, employees and servants shall be included as additional insured on any such policies of insurance, except professional liability, which shall also contain a provision that the insurance afforded thereby to the **COUNTY**, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, but only to the extent of the **CONSULTANT'S** negligence, and that if the **COUNTY** or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provisions of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the **COUNTY**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

## **SECTION 17. DISPUTES AND REMEDIES**

Any dispute between the parties to this Agreement regarding the interpretation or application of any provision contained herein shall be resolved in a court of competent jurisdiction pursuant to the laws of the State of California. Each party shall bear its own costs and attorneys fees associated with the resolution of the dispute.

## **SECTION 18. JOBSITE SAFETY AND ENVIRONMENTAL PROTECTION**

Neither the professional activities of the **CONSULTANT** nor the presence of the **CONSULTANT** or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety or environmental protection precautions required by any regulatory agencies. The **CONSULTANT** and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The **CONSULTANT** agrees that the General Contractor is solely responsible for jobsite safety, and environmental protection, and warrants that this intent shall be made evident in the **COUNTY'S** Agreement with the General Contractor. The **CONSULTANT** also agrees that the **COUNTY**, the **CONSULTANT** and any other **COUNTY CONSULTANTS** that may be providing services at the construction site shall be indemnified and shall be made additional insured's under the General Contractor's general liability insurance policy.

## **SECTION 19. Employee Benefits**

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. **Exhibit "C" and "D"** Attached.

## **SECTION 20. Non-Discrimination**

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

**Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:**

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

**SECTION 21. NOTIFICATIONS**

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

**COUNTY:**

Neil R. Cullen, Director of Public Works  
(or his designated representative)  
COUNTY of San Mateo, DPW  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

**CONSULTANT:**

Gene T. Ginther, PE, PLS  
Project Manager  
Korve Engineering, Inc.  
155 Grand Avenue, Suite 400  
Oakland, CA 94612

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,  
have affixed their hands on the day and year first above written.

"COUNTY"

SAN MATEO COUNTY

BY

\_\_\_\_\_  
Michael D. Nevin, President  
Board of Supervisors, County of San Mateo.

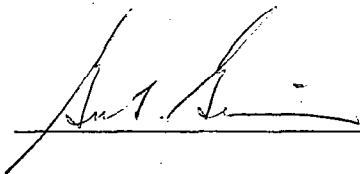
ATTEST:

\_\_\_\_\_  
Clerk of said Board

"CONSULTANT"

Korve Engineering, Inc.

BY:

\_\_\_\_\_  
A handwritten signature in dark ink, appearing to read 'Gene T. Ginther', is written over a horizontal line.

Gene T. Ginther, PE, PLS  
Project Manager

**Exhibit "A"****Engineering Services**

The Consultant shall provide services to include, but not be limited to, preliminary studies, topographic surveys, geotechnical studies, project concept development, design, construction management for a variety of public works type projects. The type public works projects that the consultant may be requested to provide services for could include the following:

1. Street Improvements
2. Land Movement Repair
3. Hydraulic Studies
4. Storm Sewer Improvements
5. Sanitary Sewer Improvements
6. Traffic Control and Circulation
7. Landfill Remediation and Repair
8. Stream/Creek Remediation

The above represent general categories of possible type projects. The Consultant would be assigned a specific project with a specified fee by means of a Project Task Order as described elsewhere in this Agreement.



## Exhibit "B"

## Hourly Rate Schedule

KORVE ENGINEERING HOURLY BILLING RATES

			<u>Standard</u>	<u>Overtime</u>
<u>Engineers and Planners</u>	Grade	1	\$65	\$98
		2	70	105
		3	75	114
		4	80	120
		5	85	128
		6	90	135
		7	95	143
		8	100	150
		9	105	
		10	110	
		11	120	
		12	125	
		13	130	
		14	135	
		15	140	
		16	145	
		17	150	
		18	155	
		19	160	
		20	165	
		21	170	
		22	175	
		23	180	
		24	185	
<u>Technicians and Support Staff</u>	Grade	A	\$40	\$60
		B	45	68
		C	50	75
		D	55	83
		E	60	90
		F	65	98
		G	70	105
		H	75	113
		I	80	120
		J	85	
		K	90	
		L	95	
		M	100	

Computer Time Charge Per Hour \$10

Expert Testimony Is invoiced at a rate of two (2) times the Standard Hourly Rate.

NOTE: All rates are subject to a 5% annual escalation commencing in April.

*Notes:*

1. Allowance for Travel Expenses shall be at the rate of \$0.345 per mile.
2. The hourly rates indicated above shall remain in effect for the term of the Agreement, unless adjustments are approved in writing, in advance of accruing cost at new rates, by the County.

**Exhibit "C"****Equal Benefits Ordinance****CHAPTER 2.93****ORDINANCE NO 04026**

An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code  
to Provide for Non-Discrimination by County Contractors in the  
Provision of Employee Benefits

**WHEREAS**, employee benefits routinely comprise a significant proportion  
of total employee compensation; and

**WHEREAS**, discrimination in the provision of employee benefits between  
employees with domestic partners and employees with spouses results in unequal pay for equal  
work; and

**WHEREAS**, County of San Mateo law prohibits discrimination based on marital status  
and/or sexual orientation; and

**WHEREAS**, it is the County's intent, through the contracting practices outlined herein,  
to equalize the total compensation between similarly situated employees with spouses and  
employees with domestic partners;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO  
AS FOLLOWS:**

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new  
Chapter 2. 93 to read as follows:

**Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**

**2.93.010 Definitions.**

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**2.93.020 Discrimination in the provision of benefits prohibited.**

- (a) No Contractor on a County Contract shall discriminate in the provision of

Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners; so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;

2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

#### **2.93.030 Application of Chapter.**

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the

Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

#### **2.93.040 Powers and duties of the County Manager.**

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
  - 1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
  - 2. Contractual remedies, including, but not limited to termination of contract.
  - 3. Liquidated damages in the amount of \$2,500.
- (d) Examine Contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

#### **2.93.050 Date of Application.**

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

Exhibit "D"

COUNTY OF SAN MATEO  
Equal Benefits Compliance Declaration Form  
(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: Korve Engineering, Inc.  
Contact Person: Mr. James C. Fea, Northern Regional Director  
Address: 155 Grand Avenue, Suite 400  
Oakland, CA 94612  
Phone Number: (510) 763-2929 Fax Number: (510) 763-2796

II Employees

Does the Contractor have any employees? X Yes        No  
Does the Contractor provide benefits to spouses of employees? X Yes        No

\*If the answer to one or both of the above is no, please skip to Section IV.\*

III Equal Benefits Compliance (Check One)

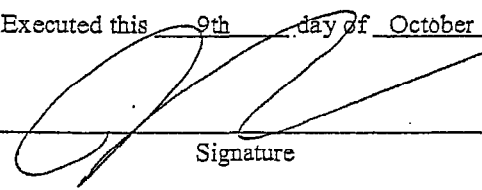
- ☒ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- ☐ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- ☐ No, the Contractor does not comply.
- ☐ The Contractor is under a collective bargaining agreement which began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 9th day of October, 2001, at

Oakland, California  
(City) (State)

  
Signature

James C. Fea  
Name (Please Print)

Northern Regional Director  
Title

94-3044352  
Contractor Tax Identification Number





# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)

11/28/2001

PRODUCER (925)935-0545 FAX (925)935-0486  
Nourse Insurance Brokers, Inc. License #0508345  
P.O. Box 3946  
590 Lennon Lane-Suite 160  
Walnut Creek, CA 94598-0868

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

## INSURERS AFFORDING COVERAGE

INSURED Korve Engineering, Inc.  
155 Grand Avenue, Suite 400  
Oakland, CA 94612

INSURER A: Fireman's Fund Insurance Co.  
INSURER B: Republic Indemnity Co. of Ca.  
INSURER C:  
INSURER D:  
INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	ABC80652278	09/11/2001	09/11/2002	EACH OCCURRENCE \$ 2,000,000
	COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$ 300,000
	CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ 10,000
	X Business Liability				PERSONAL & ADV INJURY \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE \$ 4,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG \$ 4,000,000
A	AUTOMOBILE LIABILITY	ABC80652278	09/11/2001	09/11/2002	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	ANY AUTO				BODILY INJURY (Per person) \$
	ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	X HIRED AUTOS				
	X NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
A	EXCESS LIABILITY	ABC80652278	09/11/2001	09/11/2002	EACH OCCURRENCE \$ 3,000,000
	X OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$ 3,000,000
	DEDUCTIBLE				\$
	RETENTION \$				\$
					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	13906704	09/01/2001	09/01/2002	WC STATUTORY LIMITS OTHER
					E.L. EACH ACCIDENT \$ 1,000,000
					E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
					E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDERS ARE INCLUDED AS ADDITIONAL INSURED PER FORM ABNF 9115 ATTACHED.

REF: OMNIBUS ENGINEERING SERVICES

## CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER

## CANCELLATION

COUNTY OF SAN MATEO  
DEPT. OF PUBLIC WORKS  
ATTN: BRUCE KIRK  
555 COUNTY CENTER, 5TH FLOOR  
REDWOOD CITY, CA 94063-1665

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~SEND BY MAIL~~ 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BY MAIL TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, OR BY FAX TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, OR BY TELEPHONE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, OR BY ANY OTHER MEANS THAT THE ISSUING COMPANY MAY DEEM APPROPRIATE.~~  
NOURSE INSURANCE BROKERS, INC.  
AUTHORIZED REPRESENTATIVE  
BY *Aren C. Breker*

COUNTY OF SAN MATEO

Certificate issued to COUNTY OF SAN MATEO

11/28/2001

Nourse Insurance Brokers, Inc. License #0508345

11/28/2001

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY ADDITIONAL INSURED

This endorsement modifies the insurance provided under the following:

BUSINESS OWNERS LIABILITY FORM

PERSON OR ORGANIZATION SCHEDULE

County of San Mateo and its officers, agents, employees and servants

CONTRACT SCHEDULE

Who Is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises owned by or rented to you; or your work for that insured by or for you.

The insurance provided by this endorsement is primary insurance. Any other insurance available to the person or organization shown in the Schedule is excess and noncontributory with this insurance.

The limits of insurance applicable to the person or organization added as an insured by this endorsement are those specified in the written insured contract or in the Declarations for this policy whichever are less. These limits are inclusive and not in addition to the limits of insurance shown in the Declarations.

The insurance provided by this endorsement does not apply to bodily injury or property damage which took place before the execution of, or subsequent to the completion of, the scheduled contract.

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
11/28/2001

PRODUCER (925)935-0545 FAX (925)935-0486  
Nourse Insurance Brokers, Inc. License #0508345  
P.O. Box 3946  
590 Lennon Lane-Suite 160  
Walnut Creek, CA 94598-0868

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

## INSURERS AFFORDING COVERAGE

INSURED Korve Engineering, Inc.  
155 Grand Avenue, Suite 400  
Oakland, CA 94612

INSURER A: Lexington Insurance Co  
INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	<b>OTHER</b> <b>Professional Liability</b> <b>Claims Made Policy</b> <b>Form</b>	6477267	09/11/2001	09/11/2002	\$3,000,000 Each Claim \$3,000,000 Aggregate Retroactive Date: 6/22/87

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS  
\*10 DAYS FOR NON-PAYMENT

REF: OMNIBUS ENGINEERING SERVICES

## CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER

## CANCELLATION

COUNTY OF SAN MATEO  
DEPT. OF PUBLIC WORKS  
ATTN: BRUCE KIRK  
555 COUNTY CENTER, 5TH FLOOR  
REDWOOD CITY, CA 94063-1665

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30\* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

BY

*Aren E. Brooks*

**AGREEMENT FOR OMNIBUS ENGINEERING SERVICES  
IN SAN MATEO COUNTY**

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**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, CA 94063-1665, hereinafter called '**COUNTY**' and **Winzler & Kelly**, hereinafter called '**CONSULTANT**'.

**W I T N E S S E T H:**

**WHEREAS**, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of **COUNTY**; and

**WHEREAS**, the **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete, hereinafter referred to as the "Project"; and

**WHEREAS**, **CONSULTANT** is a competent Professional Engineer qualified and with employees duly licensed to perform such engineering services in connection with said project, and the parties hereto desire to enter into an Agreement for said engineering services.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO** as follows:

**SECTION 1. SCOPE OF PROJECT**

The **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete. The type of projects may include preliminary study, design and/or construction management of street improvement, slides repairs, drainage system improvement, sanitary sewers improvement, or traffic control and channelization improvements.

The Scope of the Project to be executed by **CONSULTANT** shall be as described in Scope of Services for the Omnibus Engineering Services attached hereto as Exhibit "A", and by reference made as part of this Agreement.

**SECTION 2. GENERAL REQUIREMENTS**

(a) When a project is identified that needs consultant services, the **COUNTY** will issue a preliminary task order for each specific project to the **CONSULTANT**. The **CONSULTANT** will then propose detailed scope of services, a 'not-to-exceed' fee, and a timetable for completing the proposed project. Once an agreement is reached for a specific

project, the **COUNTY** will issue a Final Task Order, herein after called '**Task Order**' for the **CONSULTANT** to proceed.

(b) **CONSULTANT'S** work shall begin within ten (10) days after receiving **COUNTY'S** Notice to Proceed.

(c) The **CONSULTANT** will be responsible to the **COUNTY** in matters pertaining to the contractual obligations, approvals, and interpretations required for this project. The Director of Public Works or the respective designated representative will be the representative of the **COUNTY** for all purposes under this Agreement.

(d) The **CONSULTANT** as part of the services to be performed, will keep the **COUNTY** apprised at all times of the progress of the work.

(e) The **CONSULTANT** shall meet with **COUNTY** to develop a time schedule to be prepared and kept up to date by **CONSULTANT** of the anticipated program to complete services described in Exhibit "A" and any approved final task orders.

(f) Computer software used by the **CONSULTANT** to produce the documents required in this Agreement shall be compatible with the **COUNTY'S** current versions of software. The software currently used by the **COUNTY** is AutoCAD version 14, Softdesk version 8, Microsoft Office 2000 for Windows with Access, Excel and Word. During all phases of this Agreement and at the time of final submittal of report, the **CONSULTANT** shall furnish the **COUNTY** with all electronic media acceptable to the **COUNTY**, in addition to the number of copies specified in the Agreement.

(g) Any Computer Aided Design and Drafting (CADD) documents, drawings, and dated files provided by **CONSULTANT** in accordance with the services covered by this Agreement or as a courtesy to **COUNTY** do not constitute the delivery of **CONSULTANT'S** professional work product. The electronic media may be damaged during transfer or altered so paper prints shall control where there are any differences between the paper prints and the electronic media. **CONSULTANT** makes no warranties either express or implied, of merchantability, applicability, compatibility with **COUNTY'S** computer equipment, or software, or the fitness for any particular purpose for the electronic media of that the electronic media contains no defects or are virus free. Modifications or use by **COUNTY** of any documents or electronics media prepared by **CONSULTANT** for any purpose or project other than the project subject to this Agreement shall be at **COUNTY'S** sole risk. **COUNTY** agrees to indemnify and hold the **CONSULTANT** harmless from any claims, damages, liabilities, or costs, including attorney's fees and costs of defense arising from the **COUNTY'S** reuse or modification of any documents of electronic media prepared by **CONSULTANT** without the prior written consent on **CONSULTANT**.

### **SECTION 3. ENGINEERING SERVICES BY CONSULTANT**

Exhibit "A", attached hereto, includes a list of the type of projects for which the

Consultant may be requested to provide services. The Task Order(s) will be issued by the County to the Consultant and will define a specific project with a scope of work to accomplish said project.

In consideration of payment by COUNTY to CONSULTANT, as hereinafter provided, CONSULTANT agrees to perform all Engineering Services described in the approved Task Order(s) necessary to complete the project.

#### **SECTION 4. GENERAL OBLIGATIONS OF CONSULTANT**

##### **4.1 CONSULTANT PERSONNEL**

The **CONSULTANT** shall provide the **COUNTY** with resumes of key staff members to be assigned to said project including the project manager and project engineer in advance of commencing any engineering services, as outlined under Exhibit "A" of this Agreement and any approved final task orders. Once the **COUNTY** approves the key staff to be assigned to the project, any substitutions or additions shall be subject to written approval by the **COUNTY**. The **COUNTY** reserves the right to reject any personnel the **CONSULTANT** proposes for use on the project. Approval of the use of staff from work sites other than the work sites of the engineering staff initially identified to work on said project shall be subject to written approval by the **COUNTY**.

**CONSULTANT** represents that it is qualified to furnish the services described under this Agreement. **CONSULTANT** further declares that one or more members or employees of its firm and that of its subconsultants, if so required by the State, if any, are licensed by the State of California to perform their services and that these services will be performed by them or under their direct supervision. **CONSULTANT** shall furnish to **COUNTY** for approval, upon execution of this Agreement, a list of all firms or corporations to be employed as subconsultants.

Nothing in this Agreement abrogates the professional responsibilities of the **CONSULTANT** and/or subconsultants with respect to design defects, errors, omissions, or malpractice.

##### **4.2 NON-DISCRIMINATION**

**CONSULTANT**, with regard to the work performed under this Agreement, shall not discriminate on the grounds of race, religion, color, national origin, sex, sexual orientation, or age in the selection of **CONSULTANT'S** employees or in the retention of sub-contractors, including procurement of materials and leases of equipment. The **CONSULTANT** and sub-contractors shall provide the **COUNTY** with a copy of their affirmative action program, for review and approval, which should attempt to achieve an ethnic composition of their work forces which approximates the ethnic composition of San Mateo County.

### 4.3 CORRECTIONS AND/OR REVISIONS

**CONSULTANT** shall make and provide to **COUNTY** all necessary corrections and/or revisions to the project analysis when it is determined by the Director of Public Works or his designated representative, that such changes are necessary for the project and are due to oversights, omissions or errors of **CONSULTANT**.

Payment to **CONSULTANT** for making any such necessary corrections and/or revisions, addendum, or contract change orders which are determined by the Director of Public Works or the respective designated representative to be due to the oversights, omissions, or errors of the **CONSULTANT** shall be considered as being included in the Basic Services fee to be paid to **CONSULTANT** for Basic Services described in Exhibit "A" of this Agreement and any approved final task orders. It is expressly understood that no additional payment shall be considered or made for these services.

### SECTION 5. GENERAL OBLIGATIONS OF COUNTY

(a) **COUNTY** shall be responsible for providing any available data required by the **CONSULTANT** as stipulated in any approved final task orders.

(b) **COUNTY** shall examine documents submitted by **CONSULTANT** and shall render comments and direction pertaining thereto promptly (up to two weeks or otherwise upon written agreement by **COUNTY** and **CONSULTANT**), as stipulated in approved final Task Orders.

### SECTION 6. PAYMENT BY COUNTY

In consideration of the furnishing of the engineering services by **CONSULTANT**, as herein provided, **COUNTY** agrees to pay **CONSULTANT** for engineering services described in Exhibit "A" of this Agreement and any approved Task Order(s) upon receipt of properly completed monthly invoices for work performed as described in said Task Order(s). The PROJECT TOTAL "Not-to-Exceed" amount will be stipulated in each Task Order. Any cost for services deemed necessary by the **COUNTY** for completion of each Task Order shall be authorized in writing prior to proceeding with the work. Billing rates for services provided under this Agreement shall be as set forth on Exhibit "B" attached hereto and by reference made a part of this Agreement.

The "Not to Exceed" amount for this agreement shall be **\$200,000** unless said amount is authorized to be increased by the County Board of Supervisors. Specific projects that may be assigned to the Consultant shall have a Project Total 'Not To Exceed' which shall be stipulated in the Task Order. The sum of individual Task Order fees for multiple projects that may be assigned shall not exceed the Agreement 'Not To Exceed' without prior approval by the County Board of Supervisors.

Payments for services performed are due and payable upon completion and approval of



each Task Order by the Director of Public Works or the respective designated representative should the project be accomplished within a single billing period.

#### **6.1 METHOD OF PAYMENT**

Payment shall be made by COUNTY only for services rendered and upon submission of invoice after approval of each Task Order should the project be accomplished within a single billing period. Partial progress payment for items accomplished within each Task Order shall be made by COUNTY upon submission of invoice and approval of the completion of items identified in the Task Order.

#### **6.2 PAYMENT UPON SUSPENSION, ABANDONMENT OF PROJECT, OR TERMINATION OF AGREEMENT**

If any Task Order is suspended for more than thirty (30) calendar days, or abandoned in all or in part, **CONSULTANT** shall be paid for its services performed prior to receipt of thirty (30) days written notice from **COUNTY** of such suspension or abandonment, together with reimbursable expenses then due. In the event that the **COUNTY** abandons any Final Task Order the **COUNTY** may specifically authorize additional work necessary to properly close out the project.

If this Agreement or any Task Order is suspended or terminated due to fault of **CONSULTANT**, **COUNTY** shall be obligated to compensate **CONSULTANT** only for that portion of **CONSULTANT'S** services that were satisfactorily performed.

#### **6.3 PERFORMANCE OF SERVICES IF CONSULTANT IS NOT DILIGENT IN PERFORMING WORK**

In the event **CONSULTANT** is not diligent in pursuing the designated services as specified in each Task Order, the Director of Public Works or the respective designated representative may, at his option, seven (7) days after written notice to **CONSULTANT**, perform any such required engineering services or retain a different consultant to do the same, and the cost associated with having said work completed by a means other than the **CONSULTANT** will be retained from any sums not yet paid to the **CONSULTANT**.

### **SECTION 7. PROGRESS AND COMPLETION**

#### **7.1 Notice To Proceed**

The Notice to Proceed for each Task Order shall be a letter, or similar instrument, signed by the Director of Public Works or the respective designated representative, and shall be labeled "Notice to Proceed". Such "Notice to Proceed" shall contain a reference to the work authorized by said Notice.

#### **7.2 Time of Completion of each Task**

**CONSULTANT** agrees to perform the engineering services for the type of projects generally described in Exhibit "A" and described specifically by a Task Order within the time limits set forth in the project schedule required by Section 2 (d) of this Agreement. Any change in the scope of services as outlined in the Task Order will require a revised time table.

**COUNTY** agrees to exercise due diligence in performing its tasks to implement the **CONSULTANT'S** time schedule.

### **7.3 COUNTY'S Review and Approval**

Between each phase of work and at critical progress points there shall be a review and approval period by **COUNTY** and other agencies. **COUNTY** shall reject **CONSULTANT'S** submittal if changes and/or comments transmitted to **CONSULTANT** by **COUNTY** during previous review were not addressed by **CONSULTANT** in current submittal.

## **SECTION 8. CHANGES IN WORK**

The Director of Public Works or the respective designated representative may order major changes in scope or character of work in writing which are mutually acceptable, either decreasing or increasing the amount of **CONSULTANT'S** services. In the event that such changes are ordered, **CONSULTANT** shall be entitled to compensation for all work previously directed by **COUNTY** and performed by **CONSULTANT** prior to receipt of notice of change. Increased compensation for major changes shall be determined in accordance with Section 6 of the Agreement, but in no event shall **COUNTY** be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by **COUNTY**.

In the event that major changes are ordered pursuant to this Section, the schedule for progress and completion in Section 7 of this Agreement and compensation under Section 6 of this Agreement, shall be adjusted by negotiation between **CONSULTANT** and **COUNTY**.

## **SECTION 9. RECORDS**

The **CONSULTANT** and all subcontractors under its employ, supervision and/or control shall retain all financial and technical records for inspection for a period of not less than three (3) years from completion and approval of each final task order by the **COUNTY** or upon termination of Agreement.

Records of costs pertaining to the Project shall be kept by **CONSULTANT** on a generally recognized accounting basis and shall be available for **COUNTY'S** review at mutually convenient times.

## **SECTION 10. INTEREST OF CONSULTANT/CONSULTANT INDEPENDENT OF COUNTY**

In accepting this Agreement, **CONSULTANT** covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. **CONSULTANT** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed throughout the term of this Agreement. **CONSULTANT** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **COUNTY**.

In the performance of the engineering services necessary for compliance with this Agreement, **CONSULTANT**, and any of its subconsultants or employees, shall be, and is at all times considered, an Independent Contractor, and is not an agent or employee of **COUNTY**. **CONSULTANT** has, and shall retain, the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his engineering services hereunder to include any and all subconsultants employed for the project described herein. **CONSULTANT** shall be solely responsible for all matters relating to payment of his employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for his own acts and those of his subordinates and employees.

#### **SECTION 11. GENERAL PROVISIONS**

(a) The **CONSULTANT** acknowledges that time is of the essence for all projects defined in approved Task Order(s) and agrees to complete all work within the time frame as stipulated within said Task Order(s) commencing with the receipt of the **COUNTY'S** "Notice to Proceed". Time extensions shall only be approved with prior written approval of the County and failure to complete services according to a mutually agreed upon schedule may be grounds for contract termination.

(b) The **CONSULTANT** upon becoming aware of factors which would result in delays shall be responsible for alerting **COUNTY** to potential delays well in advance in order that possible mitigation measures may be evaluated. **CONSULTANT** shall detail the nature and reasons for potential delays and shall provide the **COUNTY** with possible mitigation measures for consideration.

(c) On all matters pertaining to Task Orders to be performed and the time taken by **CONSULTANT** to perform such services, the decision of the Director of Public Works or the respective designated representative will be final after discussions between **COUNTY** and **CONSULTANT**.

(d) The **CONSULTANT** warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the **CONSULTANT**, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the **COUNTY** shall have the right to annul this

Agreement without liability, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **SECTION 12. OWNERSHIP OF DOCUMENTS**

All tracings, sketches, plans, specifications, estimates, maps, design calculations, quantity calculations, supporting documents, studies, survey notes, and other documents prepared by **CONSULTANT** or subconsultants under the terms of this Agreement shall be delivered to and become the property of the **COUNTY** without restriction or limitation on their use. However, should **COUNTY** re-use or utilize data or drawings not for their intended use then **COUNTY** shall be solely liable and indemnify **CONSULTANT** against such use. Computer files used by **CONSULTANT** to produce the final set of plans and specifications shall also be delivered in AutoCAD, Softdesk, Access, Excel and Word electronic form on compact disks, 3-1/2" floppy diskettes or other media acceptable to the **COUNTY** at no additional cost and become the property of the **COUNTY**.

## **SECTION 13. TERM OF AGREEMENT**

The Term of this Agreement shall be for two ( 2 ) years from the date of execution of the Agreement by the County. The term of the Agreement may be extended, in one (1) year increments. Said approval to extend the Agreement beyond the initiate two year term of the Agreement shall be accomplished by written notification from the Director of Public Works or his designated representative.

## **SECTION 14. TERMINATION OF AGREEMENT**

The **COUNTY** reserves the right to terminate this Agreement, at no fault of either party to this Agreement, with thirty (30) days written notice by the Director of Public Works or the respective designated representative to the **CONSULTANT**.

The **COUNTY** is under no obligation to employ the **CONSULTANT** for all phases of work as outlined in this Agreement, but reserves the right to employ other consulting firms for the various phases of work. If, in the **COUNTY**'s opinion, the **CONSULTANT** is without cause not diligent in pursuing any of the engineering services provided for in Section 3 of this Agreement, the Director of Public Works or the respective designated representative may, at his option, with no more than seven (7) days after written notice to **CONSULTANT**, terminate this Agreement for engineering services or retain a different consultant to do the same, and retain the appropriate portion of any sums not yet paid to the **CONSULTANT**. Lack of diligence may include but not be limited to: lack of compliance with agreed upon schedule, submittal of partially completed required documents, and lack of quality control.

**CONSULTANT** agrees that failure to carry out the requirements as set forth in this section shall constitute a breach of contract and after appropriate notification, may result in termination of the Agreement by the **COUNTY** as the **COUNTY** deems appropriate.

## **SECTION 15. NON-ASSIGNMENT OF AGREEMENT**

This Agreement shall not be assigned, sublet or transferred by **CONSULTANT**, in whole, or in part without the written consent of the **COUNTY**. If the **CONSULTANT** elects to subcontract the soil investigation, photogrammetric mapping, traffic engineering, surveying, seismic studies or any other portions of the contract, **CONSULTANT** shall notify the Director of Public Works or the respective designated representative in writing with whom **CONSULTANT** proposes to subcontract. The approval for use of subcontractors for any aspect of the work not initially identified as part of the design team shall only be after written approval from the **COUNTY**, as stipulated in Section 11 of this Agreement.

## **SECTION 16. HOLD HARMLESS AND INSURANCE CLAUSES**

### **16.1 HOLD HARMLESS**

The **CONSULTANT** shall indemnify and save harmless the **COUNTY**, its officers, agents, employees and servants from all claims, suits or actions brought for, or on account of, injuries to or death of any person including **CONSULTANT**, or damage to property of any kind whatsoever and to whomsoever, but only to the extent that they result from the negligent performance of any work required by this Agreement of **CONSULTANT**, provided that this shall not apply to injuries or damage for which **COUNTY** has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of the **CONSULTANT** to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

### **16.2 INSURANCE**

The **CONSULTANT** shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the Director of Public Works. The **CONSULTANT** shall furnish the **COUNTY** with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual liability provision extending the **CONSULTANT'S** coverage to include the contractual liability assumed by the **CONSULTANT** pursuant to this Agreement, subject to the terms, conditions, limitations and exclusions of the policy. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given by **CONSULTANT**, in writing, to the **COUNTY** of any cancellation or modification of the policy(ies) concerning the insurance requirements set forth in this Agreement.

#### **16.2.1 Workers' Compensation and Employer's Liability Insurance**

The **CONSULTANT** shall have in effect during the entire life of this Agreement Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In

signing this Agreement, the **CONSULTANT** makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

#### 16.2.2 Liability Insurance

The **CONSULTANT** shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by this Agreement from any and all operations under this Agreement, whether such operations be by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, and in the aggregate, and shall be not less than the amount specified below:

Such insurance shall include:

- (a) Commercial General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

The **CONSULTANT** shall provide proof of continuing professional liability insurance to **COUNTY** in the amount of \$1,000,000 for a period of two (2) years after acceptance by **COUNTY** of the work constructed in conformance with **CONSULTANT'S** design and any subsequent revisions/modifications made by **CONSULTANT**. **COUNTY** and its officers, agents, employees and servants shall be included as additional insured on any such policies of insurance, except professional liability, which shall also contain a provision that the insurance afforded thereby to the **COUNTY**, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, but only to the extent of the **CONSULTANT'S** negligence, and that if the **COUNTY** or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provisions of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the **COUNTY**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

## **SECTION 17. DISPUTES AND REMEDIES**

Any dispute between the parties to this Agreement regarding the interpretation or application of any provision contained herein shall be resolved in a court of competent jurisdiction pursuant to the laws of the State of California. Each party shall bear its own costs and attorneys fees associated with the resolution of the dispute.

## **SECTION 18. JOBSITE SAFETY AND ENVIRONMENTAL PROTECTION**

Neither the professional activities of the **CONSULTANT** nor the presence of the **CONSULTANT** or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety or environmental protection precautions required by any regulatory agencies. The **CONSULTANT** and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The **CONSULTANT** agrees that the General Contractor is solely responsible for jobsite safety, and environmental protection, and warrants that this intent shall be made evident in the **COUNTY'S** Agreement with the General Contractor. The **CONSULTANT** also agrees that the **COUNTY**, the **CONSULTANT** and any other **COUNTY CONSULTANTS** that may be providing services at the construction site shall be indemnified and shall be made additional insured's under the General Contractor's general liability insurance policy.

## **SECTION 19. Employee Benefits**

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. **Exhibit "C" and "D" Attached.**

**SECTION 20. Non-Discrimination**

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

**Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:**

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.



**SECTION 21. NOTIFICATIONS**

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

**COUNTY:**

Neil R. Cullen, Director of Public Works  
(or his designated representative)  
COUNTY of San Mateo, DPW  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

**CONSULTANT:**

Anthony Petroccitto, Project Manager  
Winzler & Kelly  
200 Pine Street, Suite 600  
San Francisco, CA 94104

**IN WITNESS WHEREOF**, the parties hereto, by their duly authorized representatives,  
have affixed their hands on the day and year first above written.

**"COUNTY"**

**SAN MATEO COUNTY**

BY

\_\_\_\_\_  
Michael D. Nevin, President  
Board of Supervisors, County of San Mateo

ATTEST:

\_\_\_\_\_  
Clerk of said Board

**"CONSULTANT"**

BY:

*Anthony A. Belmont*  
\_\_\_\_\_

**Exhibit "A"****Engineering Services**

The Consultant shall provide services to include, but not be limited to, preliminary studies, topographic surveys, geotechnical studies, project concept development, design, construction management for a variety of public works type projects. The type public works projects that the consultant may be requested to provide services for could include the following:

1. Street Improvements
2. Land Movement Repair
3. Hydraulic Studies
4. Storm Sewer Improvements
5. Sanitary Sewer Improvements
6. Traffic Control and Circulation
7. Landfill Remediation and Repair
8. Stream/Creek Remediation

The above represent general categories of possible type projects. The Consultant would be assigned a specific project with a specified fee by means of a Project Task Order as described elsewhere in this Agreement.

**Exhibit "B"**

**Hourly Rate Schedule**

SEE ATTACHED

*Notes:*

1. Allowance for Travel Expenses shall be at the rate of \$0.345 per mile.
2. The hourly rates indicated above shall remain in effect for the term of the Agreement, unless adjustments are approved in writing, in advance of accruing cost at new rates, by the County.



---

Civil and Transportation Engineering

**FEE SCHEDULE**

**HOURLY RATE:**

Principal ..... \$140.00

*Rate subject to change without notice during the life of the project.*

**SPECIAL FEES:**

Minimum consultation fee ..... \$280.00

Daily fee (principal only) ..... \$1,000.00

**TRAVEL EXPENSES:**

For work outside of the San Francisco Bay area -

\$75.00 per day without lodging;

\$250.00 per day with lodging.

Auto expenses - \$0.40/mile

**OUTSIDE SERVICES**

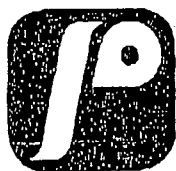
Actual invoiced costs of professional services invoiced to RKH plus a 10% fee.

**MISCELLANEOUS**

Licenses, permits, fees, special graphics, plan reproduction, document printing and other such miscellaneous expenses necessitated by the project will be charged for at the actual cost invoiced to RKH.

**PAYMENT**

Payment of invoice(s) is due upon receipt.



# PARIKH CONSULTANTS, INC.

Offices: Milpitas • Fremont • Sacramento • Walnut Creek  
481 Valley Way, Bldg. 1, Milpitas, CA 95035-4016  
(408) 945-1011 • Fax: (408) 945-1012

- Geotechnical
- Environmental
- Materials Testing
- Construction Inspection

## 2001 FEE SCHEDULE

EFFECTIVE THROUGH DECEMBER 2001

Project Manager/Principal	\$140/hour
Senior Engineer/Geologist	\$110/hour
Project Engineer/Geologist	\$90/hour
Field Engineer/Geologist	\$70/hour
Staff Engineer/Geologist	\$70/hour
Senior Technician	\$70/hour
Lab Technician/Field Technician	\$68/hour
Draftsperson	\$45/hour
Technical Typing	\$35/hour
CADD (equipment)	\$9/hour
Nuclear Gauge (\$5/test, \$35/day or \$600/month)	\$5/test
Legal Consultation	\$200/hour
Expert Witness	\$250/hour

All time spent over 8 hours per day and Saturdays for field personnel will be charged at 1.5 times the hourly rate. Sunday work will be charged at twice the hourly rate. All charges are portal-to-portal and mileage will be charged at 32.5 cents per mile. Field time, including travel time, will be charged in a 2-hour increment. Any chargeable time that falls in between these increments will be charged at the rate of the next 2-hour increment.

### OUTSIDE SERVICES

Drilling rental of special equipment, and other outside charges will be invoiced at cost plus 10%. Direct contracting/billing and payment will not incur these costs. Outside services, beyond those included in the proposal, will not be performed without prior authorization from the Client.

Miscellaneous outside reimbursable expenses encountered during the performance of our work, such as printing and other incidentals, will be billed at cost plus 10%.

The hourly rates indicated above shall remain in effect for the term of the Agreement, unless adjustments are approved in writing, in advance of accruing cost at new rates, by the County.

**FEE SCHEDULE**  
W&K CONSULTING ENGINEERS, a CORPORATION, d/b/a  
**WINZLER & KELLY, CONSULTING ENGINEERS**  
All Locations  
(Effective January 2001)

**Hourly Rates (1)**

Principal Consultant	Level IX, X	\$ 120-170
Associate Consultant	Levels VII, VIII	110-120
Senior Project Engineer—Scientist	Levels V, VI	95-105
Staff Engineer—Scientist	Level IV	90-95
Junior Engineer—Scientist	Levels I, II, III	55-85
Senior Surveyor	Levels V thru VIII	75-110
Staff Surveyor	Levels I thru IV	60-70
Survey Crew (2-person)		120-160(m)
Survey Crew (3-person)		180-220(m)
Senior Technician	Levels V thru VIII	65-95
Staff Technician	Levels I thru IV	35-60
Senior Drafter/Designer	Levels V thru IX	75-100
Staff Drafter/Designer	Levels I thru IV	50-75
Support (1)	Levels V thru VIII	55-70
Support (2)	Levels I thru IV	30-50

- (1) Hourly rates remain the same for after hours. A surcharge to our rates is added for forensic-related services.
- (2) Actual crew rates vary with personnel assigned, and may be superceded by California's prevailing wage rates, if applicable.
- (3) Includes wordprocessor operators, clerical staff, etc.

**Out-of-Pocket Project Expenditures by Winzler & Kelly**

Actual cost plus 15%.

**Miscellaneous In-House Services**

The cost of using equipment and specialized supplies is billed on the basis of employee hours dedicated to projects. This method is less costly, but less precise, than billing on the basis of "units of service." We strive to maintain fair and competitive rates, designed to recover our investment in these items which bring increased efficiency to employee labor. Instead of billing one rate with no regard to the types of projects, we have opted to apply four separate rates, such that only those projects utilizing certain types of equipment are charged. Our rates are:

A.	Office consumables	\$5.00/hr
B.	Environmental Department consumables	\$5.00/hr
C.	Survey consumables	\$5.00/hr
D.	Environmental and Land Surveying equipment	Various at market rate

**Exhibit "C"****Equal Benefits Ordinance****CHAPTER 2.93**ORDINANCE NO 04026

An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code  
to Provide for Non-Discrimination by County Contractors in the  
Provision of Employee Benefits

**WHEREAS**, employee benefits routinely comprise a significant proportion  
of total employee compensation; and

**WHEREAS**, discrimination in the provision of employee benefits between  
employees with domestic partners and employees with spouses results in unequal pay for equal  
work; and

**WHEREAS**, County of San Mateo law prohibits discrimination based on marital status  
and/or sexual orientation; and

**WHEREAS**, it is the County's intent, through the contracting practices outlined herein,  
to equalize the total compensation between similarly situated employees with spouses and  
employees with domestic partners;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO**  
**AS FOLLOWS:**

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new  
Chapter 2. 93 to read as follows:

**Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**

**2.93.010 Definitions.**



For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**2.93.020 Discrimination in the provision of benefits prohibited.**

- (a) No Contractor on a County Contract shall discriminate in the provision of

Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;

2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

#### **2.93.030 Application of Chapter.**

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the

Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

#### **2.93.040 Powers and duties of the County Manager.**

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
  - 1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
  - 2. Contractual remedies, including, but not limited to termination of contract.
  - 3. Liquidated damages in the amount of \$2,500.
- (d) Examine Contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

### **2.93.050 Date of Application.**

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

Exhibit "D"

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form  
(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: Winzler + Kelly Consulting Engineers  
Contact Person: Anthony A. Petrocetto  
Address: 200 Pine St., Suite 600  
San Francisco, CA 94104  
Phone Number: 415 283-4970 Fax Number: 415 283-4980

II Employees

Does the Contractor have any employees? ☒ Yes ☐ No  
Does the Contractor provide benefits to spouses of employees? ☒ Yes ☐ No

\*If the answer to one or both of the above is no, please skip to Section IV.\*

III Equal Benefits Compliance (Check One)

- ☒ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- ☐ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- ☐ No, the Contractor does not comply.
- ☐ The Contractor is under a collective bargaining agreement which began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 8<sup>th</sup> day of Oct., 2001 at San Francisco, CA  
(City) (State)

Anthony A. Petrocetto  
Signature

Anthony A. Petrocetto  
Name (Please Print)

Region Manager  
Title

68-0274914  
Contractor Tax Identification Number

Exhibit "D"

COUNTY OF SAN MATEO  
Equal Benefits Compliance Declaration Form  
(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: RKH Civil and Transportation Engineering  
Contact Person: Richard Hopper  
Address: 10 DeSable Road #809  
San Mateo, CA 94402  
Phone Number: 650-340-9770 Fax Number: 650-342-0640

II Employees

Does the Contractor have any employees? Yes X No  
Does the Contractor provide benefits to spouses of employees? Yes No

\*If the answer to one or both of the above is no, please skip to Section IV.\*

III Equal Benefits Compliance (Check One)

- ☐ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- ☐ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- ☐ No, the Contractor does not comply.
- ☐ The Contractor is under a collective bargaining agreement which began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 4<sup>th</sup> day of OCT. 2001 at San Mateo, CA  
(City) (State)

Richard K. Hopper  
Signature

RICHARD K. HOPPER  
Name (Please Print)

PRINCIPAL  
Title

328-34-9328  
Contractor Tax Identification Number

Exhibit "D"

COUNTY OF SAN MATEO  
Equal Benefits Compliance Declaration Form  
(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: PARIKH CONSULTANTS, INC.  
Contact Person: Gary Parikh  
Address: 481 Valley Way, Bldg. 1, Milpitas, Ca 95035  
Milpitas, Ca 95035  
Phone Number: (408) 945-1011 Fax Number: (408) 945-1012

II Employees

Does the Contractor have any employees? X Yes        No  
Does the Contractor provide benefits to spouses of employees? X Yes        No

\*If the answer to one or both of the above is no, please skip to Section IV.\*

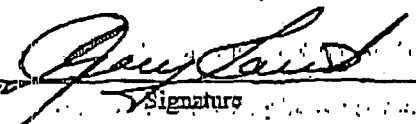
III Equal Benefits Compliance (Check One)

- ☒ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- ☐ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- ☐ No, the Contractor does not comply.
- ☐ The Contractor is under a collective bargaining agreement which began on                      (date) and expires on                      (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 5th day of October, 2001 at Milpitas, Ca  
(City) (State)

 Signature  
Name (Please Print) Gary Parikh  
President Title 94-317-2905 Contractor Tax Identification Number



WINZLKELL

DATE (MM/DD/YY)  
11/28/01

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

### INSURERS AFFORDING COVERAGE

INSURER A:	Fireman's Fund Insurance Co.
INSURER B:	National Surety Corp.
INSURER C:	American Automobile Ins. Co.
INSURER D:	Agricultural Insurance Company
INSURER E:	

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	MZX80777659	03/01/01	03/01/02	EACH OCCURRENCE FIRE DAMAGE (Any one fire) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	\$1,000,000 \$1,000,000 \$10,000 \$1,000,000 \$2,000,000 \$2,000,000
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS  <b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO	MZA80220384	03/01/01	03/01/02	COMBINED SINGLE LIMIT (Ea accident)  BODILY INJURY (Per person)  BODILY INJURY (Per accident)  PROPERTY DAMAGE (Per accident)	\$1,000,000  \$  \$  \$
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				AUTO ONLY - EA ACCIDENT OTHER THAN EA ACC AUTO ONLY: AGG	\$ \$ \$
					EACH OCCURRENCE AGGREGATE    	\$ \$ \$ \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WZP80886130	07/01/01	07/01/02	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER	\$1,000,000 \$1,000,000 \$1,000,000
D	OTHER Professional Liability	EDN3209078	03/01/01	03/01/02		\$1,000,000 per Claim \$1,000,000 Annl Aggr.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Ref: #013056-XX. County of San Mateo Department of Public Works.  
Engineering Services.

GENERAL/AUTOMOBILE LIABILITY ADDITIONAL INSURED: County of San Mateo, its officers, agents, employees and servants.

**CERTIFICATE HOLDER**

ADDITIONAL INSURED: INSURER LETTER:

## CANCELLATION

**Attn: Bruce E. Kirk**  
**555 County Center, 5th Floor**  
**Redwood City, CA 94063-1665**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION  
DATE THEREOF, THE ISSUING INSURER WILL ~~REPAY OR~~ MAIL 30 DAYS WRITTEN  
NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~AND FOR KNOX COUNTY~~  
~~IN THESE NO OBLIGATION FOR CO-INSURANCE OF ANY PERSON OR PERSONS, AS A BASIS OF~~  
~~REPRESENTATION.~~  
AUTHORIZED REPRESENTATIVE

ACORD 25.5 (7/97) 1

POLICY NUMBER: MZX80777659

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES or  
CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

County of San Mateo

DPW

Attn: Bruce E. Kirk

555 County Center, 5th Floor

Redwood City, CA 94063-1665

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

Ref: #013056-XX. County of San Mateo Department of Public Works.  
Engineering Services. GENERAL/AUTOMOBILE LIABILITY ADDITIONAL INSURED:  
County of San Mateo, its officers, agents, employees and servants.

PRIMARY INSURANCE:

IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY  
AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED  
SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS  
INSURANCE.

**ACORD CERTIFICATE OF LIABILITY INSURANCE**DATE (MM/DD/YY)  
3/12/01**PRODUCER**Dealey, Renton & Associates  
P. O. Box 12675  
Oakland, CA 94604-2675  
(415) 465-3090

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE****INSURED**Winzler & Kelly Consulting Engineers  
Attn: Michelle LaFon  
200 Pine Street, Suite 600  
San Francisco, CA 94104

INSURER A: Fireman's Fund Insurance Co.

INSURER B: National Surety Corp.

INSURER C: American Automobile Ins. Co.

INSURER D: Agricultural Insurance Company

INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	MZX80777659	03/01/01	03/01/02	EACH OCCURRENCE \$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$1,000,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$10,000
					PERSONAL & ADV INJURY \$1,000,000
					GENERAL AGGREGATE \$2,000,000
					PRODUCTS-COMP/OP AGG \$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				
B	AUTOMOBILE LIABILITY	MZA80220384	03/01/01	03/01/02	COMBINED SINGLE LIMIT (EA accident) \$1,000,000
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS				
	<input checked="" type="checkbox"/> NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
	EXCESS LIABILITY				EACH OCCURRENCE \$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
	<input type="checkbox"/> DEDUCTIBLE				\$
	<input type="checkbox"/> RETENTION \$				\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WZP80851506	07/01/00	07/01/01	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER \$
					E.L. EACH ACCIDENT \$1,000,000
					E.L. DISEASE-EA EMPLOYEE \$1,000,000
					E.L. DISEASE-POLICY LIMIT \$1,000,000
D	OTHER Professional Liability	EDN3209078	03/01/01	03/01/02	\$1,000,000 per Claim \$1,000,000 Annl Aggr.

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**

Ref: Omnibus Engineering Agreement.

GENERAL/AUTOMOBILE LIABILITY ADDITIONAL INSURED: County of San Mateo, its officers, agents, employees and servants.

**CERTIFICATE HOLDER****ADDITIONAL INSURED; INSURER LETTER****CANCELLATION**County of San Mateo  
Attn: Bruce E. Kirk  
Department of Public Works  
555 County Center 5th Floor  
Redwood City, CA 94063SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL NOTIFY THE CERTIFICATE HOLDER BY MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. THE POLICY CANCELLATION NOTICE SHALL BE MAILED TO THE CERTIFICATE HOLDER BY THE ISSUING INSURER. THE POLICY CANCELLATION NOTICE SHALL BE MAILED TO THE CERTIFICATE HOLDER BY THE ISSUING INSURER. THE POLICY CANCELLATION NOTICE SHALL BE MAILED TO THE CERTIFICATE HOLDER BY THE ISSUING INSURER.  
AUTHORIZED REPRESENTATIVE  
*Al C. E.*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES or  
CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

County of San Mateo

Attn: Bruce E. Kirk

Department of Public Works

555 County Center 5th Floor

Redwood City, CA 94063

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

Ref: Omnibus Engineering Agreement. GENERAL/AUTOMOBILE LIABILITY  
ADDITIONAL INSURED: County of San Mateo, its officers, agents,  
employees and servants.

PRIMARY INSURANCE:

IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY  
AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED  
SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS  
INSURANCE.

## AGREEMENT FOR OMNIBUS ENGINEERING SERVICES IN SAN MATEO COUNTY

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**THIS AGREEMENT**, entered into this \_\_\_\_ day of \_\_\_\_\_ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, CA 94063-1665, hereinafter called '**COUNTY**' and **Kleinfelder**, hereinafter called '**CONSULTANT**'.

### W I T N E S S E T H:

**WHEREAS**, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of **COUNTY**; and

**WHEREAS**, the **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete, hereinafter referred to as the "Project"; and

**WHEREAS**, **CONSULTANT** is a competent Professional Engineer qualified and with employees duly licensed to perform such engineering services in connection with said project, and the parties hereto desire to enter into an Agreement for said engineering services.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO** as follows:

#### **SECTION 1.   SCOPE OF PROJECT**

The **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete. The type of projects may include preliminary study, design and/or construction management of street improvement, slides repairs, drainage system improvement, sanitary sewers improvement, or traffic control and channelization improvements.

The Scope of the Project to be executed by **CONSULTANT** shall be as described in Scope of Services for the Omnibus Engineering Services attached hereto as Exhibit "A", and by reference made as part of this Agreement.

#### **SECTION 2.   GENERAL REQUIREMENTS**

(a) When a project is identified that needs consultant services, the **COUNTY** will issue a preliminary task order for each specific project to the **CONSULTANT**. The **CONSULTANT** will then propose detailed scope of services, a 'not-to-exceed' fee, and a timetable for completing the proposed project. Once an agreement is reached for a specific

project, the **COUNTY** will issue a Final Task Order, herein after called '**Task Order**' for the **CONSULTANT** to proceed.

(b) **CONSULTANT'S** work shall begin within ten (10) days after receiving **COUNTY'S** Notice to Proceed.

(c) The **CONSULTANT** will be responsible to the **COUNTY** in matters pertaining to the contractual obligations, approvals, and interpretations required for this project. The Director of Public Works or the respective designated representative will be the representative of the **COUNTY** for all purposes under this Agreement.

(d) The **CONSULTANT** as part of the services to be performed, will keep the **COUNTY** apprised at all times of the progress of the work.

(e) The **CONSULTANT** shall meet with **COUNTY** to develop a time schedule to be prepared and kept up to date by **CONSULTANT** of the anticipated program to complete services described in Exhibit "A" and any approved final task orders.

(f) Computer software used by the **CONSULTANT** to produce the documents required in this Agreement shall be compatible with the **COUNTY'S** current versions of software. The software currently used by the **COUNTY** is AutoCAD version 14, Softdesk version 8, Microsoft Office 2000 for Windows with Access, Excel and Word. During all phases of this Agreement and at the time of final submittal of report, the **CONSULTANT** shall furnish the **COUNTY** with all electronic media acceptable to the **COUNTY**, in addition to the number of copies specified in the Agreement.

(g) Any Computer Aided Design and Drafting ( CADD ) documents, drawings, and dated files provided by **CONSULTANT** in accordance with the services covered by this Agreement or as a courtesy to **COUNTY** do not constitute the delivery of **CONSULTANT'S** professional work product. The electronic media may be damaged during transfer or altered so paper prints shall control where there are any differences between the paper prints and the electronic media. **CONSULTANT** makes no warranties either express or implied, of merchantability, applicability, compatibility with **COUNTY'S** computer equipment, or software, or the fitness for any particular purpose for the electronic media of that the electronic media contains no defects or are virus free. Modifications or use by **COUNTY** of any documents or electronics media prepared by **CONSULTANT** for any purpose or project other than the project subject to this Agreement shall be at **COUNTY'S** sole risk. **COUNTY** agrees to indemnify and hold the **CONSULTANT** harmless from any claims, damages, liabilities, or costs, including attorney's fees and costs of defense arising from the **COUNTY'S** reuse of modification of any documents of electronic media prepared by **CONSULTANT** without the prior written consent on **CONSULTANT**.

### **SECTION 3. ENGINEERING SERVICES BY CONSULTANT**

Exhibit "A", attached hereto, includes a list of the type of projects for which the Consultant may be requested to provide services. The Task Order(s) will be issued by the County to the Consultant and will define a specific project with a scope of work to accomplish said project.

In consideration of payment by COUNTY to CONSULTANT, as hereinafter provided, CONSULTANT agrees to perform all Engineering Services described in the approved Task Order(s) necessary to complete the project.

### **SECTION 4. GENERAL OBLIGATIONS OF CONSULTANT**

#### **4.1 CONSULTANT PERSONNEL**

The CONSULTANT shall provide the COUNTY with resumes of key staff members to be assigned to said project including the project manager and project engineer in advance of commencing any engineering services, as outlined under Exhibit "A" of this Agreement and any approved final task orders. Once the COUNTY approves the key staff to be assigned to the project, any substitutions or additions shall be subject to written approval by the COUNTY. The COUNTY reserves the right to reject any personnel the CONSULTANT proposes for use on the project. Approval of the use of staff from work sites other than the work sites of the engineering staff initially identified to work on said project shall be subject to written approval by the COUNTY.

CONSULTANT represents that it is qualified to furnish the services described under this Agreement. CONSULTANT further declares that one or more members or employees of its firm and that of its subconsultants, if so required by the State, if any, are licensed by the State of California to perform their services and that these services will be performed by them or under their direct supervision. CONSULTANT shall furnish to COUNTY for approval, upon execution of this Agreement, a list of all firms or corporations to be employed as subconsultants.

Nothing in this Agreement abrogates the professional responsibilities of the CONSULTANT and/or subconsultants with respect to design defects, errors, omissions, or malpractice.

#### **4.2 NON-DISCRIMINATION**

CONSULTANT, with regard to the work performed under this Agreement, shall not discriminate on the grounds of race, religion, color, national origin, sex, sexual orientation, or age in the selection of CONSULTANT'S employees or in the retention of sub-contractors, including procurement of materials and leases of equipment. The CONSULTANT and sub-contractors shall provide the COUNTY with a copy of their affirmative action program, for review and approval, which should attempt to achieve an ethnic composition of their work forces which approximates the ethnic composition of San Mateo County.

#### 4.3 CORRECTIONS AND/OR REVISIONS

**CONSULTANT** shall make and provide to **COUNTY** all necessary corrections and/or revisions to the project analysis when it is determined by the Director of Public Works or his designated representative, that such changes are necessary for the project and are due to oversights, omissions or errors of **CONSULTANT**.

Payment to **CONSULTANT** for making any such necessary corrections and/or revisions, addendum, or contract change orders which are determined by the Director of Public Works or the respective designated representative to be due to the oversights, omissions, or errors of the **CONSULTANT** shall be considered as being included in the Basic Services fee to be paid to **CONSULTANT** for Basic Services described in Exhibit "A" of this Agreement and any approved final task orders. It is expressly understood that no additional payment shall be considered or made for these services.

#### SECTION 5. GENERAL OBLIGATIONS OF COUNTY

(a) **COUNTY** shall be responsible for providing any available data required by the **CONSULTANT** as stipulated in any approved final task orders.

(b) **COUNTY** shall examine documents submitted by **CONSULTANT** and shall render comments and direction pertaining thereto promptly (up to two weeks or otherwise upon written agreement by **COUNTY** and **CONSULTANT**), as stipulated in approved final Task Orders.

#### SECTION 6. PAYMENT BY COUNTY

In consideration of the furnishing of the engineering services by **CONSULTANT**, as herein provided, **COUNTY** agrees to pay **CONSULTANT** for engineering services described in Exhibit "A" of this Agreement and any approved Task Order(s) upon receipt of properly completed monthly invoices for work performed as described in said Task Order(s). The PROJECT TOTAL "Not-to-Exceed" amount will be stipulated in each Task Order. Any cost for services deemed necessary by the **COUNTY** for completion of each Task Order shall be authorized in writing prior to proceeding with the work. Billing rates for services provided under this Agreement shall be as set forth on Exhibit "B" attached hereto and by reference made a part of this Agreement.

The "Not to Exceed" amount for this agreement shall be \$ 200,000 unless said amount is authorized to be increased by the County Board of Supervisors. Specific projects that may be assigned to the Consultant shall have a Project Total 'Not To Exceed' which shall be stipulated in the Task Order. The sum of individual Task Order fees for multiple projects that may be assigned shall not exceed the Agreement 'Not To Exceed' without prior approval by the County Board of Supervisors.



Payments for services performed are due and payable upon completion and approval of each Task Order by the Director of Public Works or the respective designated representative should the project be accomplished within a single billing period.

#### **6.1 METHOD OF PAYMENT**

Payment shall be made by COUNTY only for services rendered and upon submission of invoice after approval of each Task Order should the project be accomplished within a single billing period. Partial progress payment for items accomplished within each Task Order shall be made by COUNTY upon submission of invoice and approval of the completion of items identified in the Task Order.

#### **6.2 PAYMENT UPON SUSPENSION, ABANDONMENT OF PROJECT, OR TERMINATION OF AGREEMENT**

If any Task Order is suspended for more than thirty (30) calendar days, or abandoned in all or in part, **CONSULTANT** shall be paid for its services performed prior to receipt of thirty (30) days written notice from **COUNTY** of such suspension or abandonment, together with reimbursable expenses then due. In the event that the **COUNTY** abandons any Final Task Order the **COUNTY** may specifically authorize additional work necessary to properly close out the project.

If this Agreement or any Task Order is suspended or terminated due to fault of **CONSULTANT**, **COUNTY** shall be obligated to compensate **CONSULTANT** only for that portion of **CONSULTANT'S** services that were satisfactorily performed.

#### **6.3 PERFORMANCE OF SERVICES IF CONSULTANT IS NOT DILIGENT IN PERFORMING WORK**

In the event **CONSULTANT** is not diligent in pursuing the designated services as specified in each Task Order, the Director of Public Works or the respective designated representative may, at his option, seven (7) days after written notice to **CONSULTANT**, perform any such required engineering services or retain a different consultant to do the same, and the cost associated with having said work completed by a means other than the **CONSULTANT** will be retained from any sums not yet paid to the **CONSULTANT**.

### **SECTION 7. PROGRESS AND COMPLETION**

#### **7.1 Notice To Proceed**

The Notice to Proceed for each Task Order shall be a letter, or similar instrument, signed by the Director of Public Works or the respective designated representative, and shall be labeled "Notice to Proceed". Such "Notice to Proceed" shall contain a reference to the work authorized by said Notice.

## 7.2 Time of Completion of each Task

**CONSULTANT** agrees to perform the engineering services for the type of projects generally described in Exhibit "A" and described specifically by a Task Order within the time limits set forth in the project schedule required by Section 2 (d) of this Agreement. Any change in the scope of services as outlined in the Task Order will require a revised time table.

**COUNTY** agrees to exercise due diligence in performing its tasks to implement the **CONSULTANT'S** time schedule.

## 7.3 COUNTY'S Review and Approval

Between each phase of work and at critical progress points there shall be a review and approval period by **COUNTY** and other agencies. **COUNTY** shall reject **CONSULTANT'S** submittal if changes and/or comments transmitted to **CONSULTANT** by **COUNTY** during previous review were not addressed by **CONSULTANT** in current submittal.

## SECTION 8. CHANGES IN WORK

The Director of Public Works or the respective designated representative may order major changes in scope or character of work in writing which are mutually acceptable, either decreasing or increasing the amount of **CONSULTANT'S** services. In the event that such changes are ordered, **CONSULTANT** shall be entitled to compensation for all work previously directed by **COUNTY** and performed by **CONSULTANT** prior to receipt of notice of change. Increased compensation for major changes shall be determined in accordance with Section 6 of the Agreement, but in no event shall **COUNTY** be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by **COUNTY**.

In the event that major changes are ordered pursuant to this Section, the schedule for progress and completion in Section 7 of this Agreement and compensation under Section 6 of this Agreement, shall be adjusted by negotiation between **CONSULTANT** and **COUNTY**.

## SECTION 9. RECORDS

The **CONSULTANT** and all subcontractors under its employ, supervision and/or control shall retain all financial and technical records for inspection for a period of not less than three (3) years from completion and approval of each final task order by the **COUNTY** or upon termination of Agreement.

Records of costs pertaining to the Project shall be kept by **CONSULTANT** on a generally recognized accounting basis and shall be available for **COUNTY'S** review at mutually convenient times.

## **SECTION 10. INTEREST OF CONSULTANT/CONSULTANT INDEPENDENT OF COUNTY**

In accepting this Agreement, **CONSULTANT** covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. **CONSULTANT** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed throughout the term of this Agreement. **CONSULTANT** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **COUNTY**.

In the performance of the engineering services necessary for compliance with this Agreement, **CONSULTANT**, and any of its subconsultants or employees, shall be, and is at all times considered, an Independent Contractor, and is not an agent or employee of **COUNTY**. **CONSULTANT** has, and shall retain, the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his engineering services hereunder to include any and all subconsultants employed for the project described herein. **CONSULTANT** shall be solely responsible for all matters relating to payment of his employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for his own acts and those of his subordinates and employees.

## **SECTION 11. GENERAL PROVISIONS**

(a) The **CONSULTANT** acknowledges that time is of the essence for all projects defined in approved Task Order(s) and agrees to complete all work within the time frame as stipulated within said Task Order(s) commencing with the receipt of the **COUNTY'S** "Notice to Proceed". Time extensions shall only be approved with prior written approval of the County and failure to complete services according to a mutually agreed upon schedule may be grounds for contract termination.

(b) The **CONSULTANT** upon becoming aware of factors which would result in delays shall be responsible for alerting **COUNTY** to potential delays well in advance in order that possible mitigation measures may be evaluated. **CONSULTANT** shall detail the nature and reasons for potential delays and shall provide the **COUNTY** with possible mitigation measures for consideration.

(c) On all matters pertaining to Task Orders to be performed and the time taken by **CONSULTANT** to perform such services, the decision of the Director of Public Works or the respective designated representative will be final after discussions between **COUNTY** and **CONSULTANT**.

(d) The **CONSULTANT** warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the **CONSULTANT**, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person,

other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the **COUNTY** shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **SECTION 12. OWNERSHIP OF DOCUMENTS**

All tracings, sketches, plans, specifications, estimates, maps, design calculations, quantity calculations, supporting documents, studies, survey notes, and other documents prepared by **CONSULTANT** or subconsultants under the terms of this Agreement shall be delivered to and become the property of the **COUNTY** without restriction or limitation on their use. However, should **COUNTY** re-use or utilize data or drawings not for their intended use then **COUNTY** shall be solely liable and indemnify **CONSULTANT** against such use. Computer files used by **CONSULTANT** to produce the final set of plans and specifications shall also be delivered in AutoCAD, Softdesk, Access, Excel and Word electronic form on compact disks, 3-1/2" floppy diskettes or other media acceptable to the **COUNTY** at no additional cost and become the property of the **COUNTY**.

## **SECTION 13. TERM OF AGREEMENT**

The Term of this Agreement shall be for two ( 2 ) years from the date of execution of the Agreement by the County. The term of the Agreement may be extended , in one (1) year increments. Said approval to extend the Agreement beyond the initiate two year term of the Agreement shall be accomplished by written notification from the Director of Public Works or his designated representative.

## **SECTION 14. TERMINATION OF AGREEMENT**

The **COUNTY** reserves the right to terminate this Agreement, at no fault of either party to this Agreement, with thirty (30) days written notice by the Director of Public Works or the respective designated representative to the **CONSULTANT**.

The **COUNTY** is under no obligation to employ the **CONSULTANT** for all phases of work as outlined in this Agreement, but reserves the right to employ other consulting firms for the various phases of work. If, in the **COUNTY**'s opinion, the **CONSULTANT** is without cause not diligent in pursuing any of the engineering services provided for in Section 3 of this Agreement, the Director of Public Works or the respective designated representative may, at his option, with no more than seven (7) days after written notice to **CONSULTANT**, terminate this Agreement for engineering services or retain a different consultant to do the same, and retain the appropriate portion of any sums not yet paid to the **CONSULTANT**. Lack of diligence may include but not be limited to: lack of compliance with agreed upon schedule, submittal of partially completed required documents, and lack of quality control.

**CONSULTANT** agrees that failure to carry out the requirements as set forth in this section shall constitute a breach of contract and after appropriate notification, may result in termination of the Agreement by the **COUNTY** as the **COUNTY** deems appropriate.

#### **SECTION 15. NON-ASSIGNMENT OF AGREEMENT**

This Agreement shall not be assigned, sublet or transferred by **CONSULTANT**, in whole, or in part without the written consent of the **COUNTY**. If the **CONSULTANT** elects to subcontract the soil investigation, photogrammetric mapping, traffic engineering, surveying, seismic studies or any other portions of the contract, **CONSULTANT** shall notify the Director of Public Works or the respective designated representative in writing with whom **CONSULTANT** proposes to subcontract. The approval for use of subcontractors for any aspect of the work not initially identified as part of the design team shall only be after written approval from the **COUNTY**, as stipulated in Section 11 of this Agreement.

#### **SECTION 16. HOLD HARMLESS AND INSURANCE CLAUSES**

##### **16.1 HOLD HARMLESS**

The **CONSULTANT** shall indemnify and save harmless the **COUNTY**, its officers, agents, employees and servants from all claims, suits or actions brought for, or on account of, injuries to or death of any person including **CONSULTANT**, or damage to property of any kind whatsoever and to whomsoever, but only to the extent that they result from the negligent performance of any work required by this Agreement of **CONSULTANT**, provided that this shall not apply to injuries or damage for which **COUNTY** has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of the **CONSULTANT** to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

##### **16.2 INSURANCE**

The **CONSULTANT** shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the Director of Public Works. The **CONSULTANT** shall furnish the **COUNTY** with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual liability provision extending the **CONSULTANT'S** coverage to include the contractual liability assumed by the **CONSULTANT** pursuant to this Agreement, subject to the terms, conditions, limitations and exclusions of the policy. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given by **CONSULTANT**, in writing, to the **COUNTY** of any cancellation or modification of the policy(ies) concerning the insurance requirements set forth in this Agreement.

### 16.2.1 Workers' Compensation and Employer's Liability Insurance

The **CONSULTANT** shall have in effect during the entire life of this Agreement Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In signing this Agreement, the **CONSULTANT** makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

### 16.2.2 Liability Insurance

The **CONSULTANT** shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by this Agreement from any and all operations under this Agreement, whether such operations be by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, and in the aggregate, and shall be not less than the amount specified below:

Such insurance shall include:

- (a) Commercial General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

The **CONSULTANT** shall provide proof of continuing professional liability insurance to **COUNTY** in the amount of \$1,000,000 for a period of two (2) years after acceptance by **COUNTY** of the work constructed in conformance with **CONSULTANT'S** design and any subsequent revisions/modifications made by **CONSULTANT**. **COUNTY** and its officers, agents, employees and servants shall be included as additional insured on any such policies of insurance, except professional liability, which shall also contain a provision that the insurance afforded thereby to the **COUNTY**, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, but only to the extent of the **CONSULTANT'S** negligence, and that if the **COUNTY** or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provisions of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the **COUNTY**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

## **SECTION 17. DISPUTES AND REMEDIES**

Any dispute between the parties to this Agreement regarding the interpretation or application of any provision contained herein shall be resolved in a court of competent jurisdiction pursuant to the laws of the State of California. Each party shall bear its own costs and attorneys fees associated with the resolution of the dispute.

## **SECTION 18. JOBSITE SAFETY AND ENVIRONMENTAL PROTECTION**

Neither the professional activities of the **CONSULTANT** nor the presence of the **CONSULTANT** or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety or environmental protection precautions required by any regulatory agencies. The **CONSULTANT** and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The **CONSULTANT** agrees that the General Contractor is solely responsible for jobsite safety, and environmental protection, and warrants that this intent shall be made evident in the **COUNTY'S** Agreement with the General Contractor. The **CONSULTANT** also agrees that the **COUNTY**, the **CONSULTANT** and any other **COUNTY CONSULTANTS** that may be providing services at the construction site shall be indemnified and shall be made additional insured's under the General Contractor's general liability insurance policy.

## **SECTION 19. Employee Benefits**

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. Exhibit "C" and "D" Attached.

## **SECTION 20. Non-Discrimination**

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

**Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:**

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.



**SECTION 21. NOTIFICATIONS**

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

**COUNTY:**

Neil R. Cullen, Director of Public Works  
(or his designated representative)

COUNTY of San Mateo, DPW  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

**CONSULTANT:**

Michael F. Majchrzak, C.E., G.E.  
Area Manager  
Kleinfelder  
7133 Koll Center Parkway, Suite 100  
Pleasanton, CA 945663101

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,  
have affixed their hands on the day and year first above written.

**"COUNTY"**

**SAN MATEO COUNTY**

BY

\_\_\_\_\_  
Michael D. Nevin, President  
Board of Supervisors, County of San Mateo

ATTEST:

\_\_\_\_\_  
Clerk of said Board

**"CONSULTANT"**

BY:

\_\_\_\_\_  
A handwritten signature in dark ink, appearing to read 'Michael D. Nevin', is written over a horizontal line.

## **Exhibit "A"**

### **Engineering Services**

The Consultant shall provide services to include, but not be limited to, preliminary studies, topographic surveys, geotechnical studies, project concept development, design, construction management for a variety of public works type projects. The type public works projects that the consultant may be requested to provide services for could include the following:

1. Street Improvements
2. Land Movement Repair
3. Hydraulic Studies
4. Storm Sewer Improvements
5. Sanitary Sewer Improvements
6. Traffic Control and Circulation
7. Landfill Remediation and Repair
8. Stream/Creek Remediation

The above represent general categories of possible type projects. The Consultant would be assigned a specific project with a specified fee by means of a Project Task Order as described elsewhere in this Agreement.

**Exhibit "B"****Hourly Rate Schedule**

SEE ATTACHED

*Notes:*

1. Allowance for Travel Expenses shall be at the rate of \$0.345 per mile.
2. The hourly rates indicated above shall remain in effect for the term of the Agreement, unless adjustments are approved in writing, in advance of accruing cost at new rates, by the County.

# KLEINFELDER BAY AREA REGION 2002 FEE SCHEDULE ENVIRONMENTAL AND GEOTECHNICAL/MATERIALS TESTING SERVICES

## PROFESSIONAL STAFF RATES\*

Professional .....	\$ 100 / hour
Staff Professional .....	\$ 115 / hour
Senior Staff Professional .....	\$ 130 / hour
Project Professional .....	\$ 140 / hour
Project Manager .....	\$ 150 / hour
Senior Professional .....	\$ 160 / hour
Senior Project Manager .....	\$ 175 / hour
Principal Professional .....	\$ 195 / hour
Senior Principal\Expert Witness .....	\$ 330 / hour
Program Manager\Senior Consultant .....	\$ 210 / hour
Senior Program Manager .....	\$ 230 / hour

## ADMINISTRATIVE/TECHNICAL STAFF RATES

	Non-Prevailing Wage	Prevailing Wage
Administrative\Word Processor .....	\$ 68 / hour	\$ 68 / hour
Technician.....	\$ 74 / hour	\$ 84 / hour
Associate Technician .....	\$ 80 / hour	\$ 90 / hour
Senior Technician .....	\$ 90 / hour	\$ 100 / hour
Supervisory Technician .....	\$ 100 / hour	\$ 100 / hour
Draftsperson.....	\$ 80 / hour	\$ 80 / hour
CADD Operator.....	\$ 92 / hour	\$ 92 / hour

Minimum Charges For Office Time Per Day.....	One Hour at Applicable Rate
Incremental Charges For Testing and Inspection .....	Four Hour Increments

\* Applies to all professional rates including but not limited to civil, mechanical, chemical, electrical, geotechnical and environmental engineers; industrial hygienists; geologists; hydrogeologists; hydrologists; and computer specialist

**Exhibit "C"****Equal Benefits Ordinance****CHAPTER 2.93****ORDINANCE NO 04026**

An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code  
to Provide for Non-Discrimination by County Contractors in the  
Provision of Employee Benefits

**WHEREAS**, employee benefits routinely comprise a significant proportion  
of total employee compensation; and

**WHEREAS**, discrimination in the provision of employee benefits between  
employees with domestic partners and employees with spouses results in unequal pay for equal  
work; and

**WHEREAS**, County of San Mateo law prohibits discrimination based on marital status  
and/or sexual orientation; and

**WHEREAS**, it is the County's intent, through the contracting practices outlined herein,  
to equalize the total compensation between similarly situated employees with spouses and  
employees with domestic partners;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO**  
**AS FOLLOWS:**

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new  
Chapter 2. 93 to read as follows:

**Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**

**2.93.010 Definitions.**

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**2.93.020 Discrimination in the provision of benefits prohibited.**

- (a) No Contractor on a County Contract shall discriminate in the provision of

Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;



2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

#### **2.93.030 Application of Chapter.**

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the

Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

#### **2.93.040 Powers and duties of the County Manager.**

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
  - 1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
  - 2. Contractual remedies, including, but not limited to termination of contract.
  - 3. Liquidated damages in the amount of \$2,500.
- (d) Examine Contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

### **2.93.050 Date of Application.**

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

**Exhibit "D"**

**COUNTY OF SAN MATEO**  
**Equal Benefits Compliance Declaration Form**  
**(To Be Submitted with Proposal)**

**I Vendor Identification**

Name of Contractor: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

**II Employees**

Does the Contractor have any employees? \_\_\_\_\_ Yes \_\_\_\_\_ No

Does the Contractor provide benefits to spouses of employees? \_ Yes \_\_\_\_\_ No

\*If the answer to one or both of the above is no, please skip to Section IV.\*

**III Equal Benefits Compliance (Check One)**☐ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.☐ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.☐ No, the Contractor does not comply.☐ The Contractor is under a collective bargaining agreement which began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date).**IV Declaration**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, \_\_\_\_\_  
 (City) (State)

\_\_\_\_\_  
 Signature\_\_\_\_\_  
 Name (Please Print)\_\_\_\_\_  
 Title\_\_\_\_\_  
 Contractor Tax Identification Number

**Exhibit "D"****COUNTY OF SAN MATEO****Equal Benefits Compliance Declaration Form  
(To Be Submitted with Proposal)****I Vendor Identification**

Name of Contractor: Kleinfelder, Inc.

Contact Person: Mike Majchrzak

Address: 7133 Koll Center Parkway #100  
Pleasanton, CA 94566

Phone Number: 925.484.1700 Fax Number: 925.484.5838

**II Employees**

Does the Contractor have any employees? x Yes        No

Does the Contractor provide benefits to spouses of employees? x Yes        No

\*If the answer to one or both of the above is no, please skip to Section IV.\*

**III Equal Benefits Compliance (Check One)**

- ☒ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- ☐ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- ☐ No, the Contractor does not comply.
- ☐ The Contractor is under a collective bargaining agreement which began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date).

**IV Declaration**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 4th day of Dec, 2001 at Pleasanton, CA  
 \_\_\_\_\_  
 (City) (State)  
Michael F Majchrzak  
 \_\_\_\_\_  
 Signature Name (Please Print)  
Area Manager 94-1532513  
 \_\_\_\_\_  
 Title Contractor Tax Identification Number

MARSH USA INC.

## CERTIFICATE OF INSURANCE

CERTIFICATE NUMBER  
SEA-000491108-00

## PRODUCER

MARSH RISK AND INSURANCE SERVICES  
THREE EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS  
NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE  
POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE  
AFFORDED BY THE POLICES DESCRIBED HEREIN.

## COMPANIES AFFORDING COVERAGE

## COMPANY

A LUMBERMENS MUTUAL CASUALTY CO.

## COMPANY

B TRAVELERS INDEMNITY CO. OF ILLINOIS

## COMPANY

C N/A

## COMPANY

D KEMPER SURPLUS LINES

101814-00001-ALL-

PLSNT

## INSURED

KLEINFELDER, INC.  
5015 SHOREHAM PLACE  
SAN DIEGO, CA 92122

## COVERAGES

This certificate supersedes and replaces any previously issued certificate for the policy period noted below

THIS IS TO CERTIFY THAT POLICES OF INSURANCE DESCRIBED HEREIN HAVE BEEN ISSUED TO THE INSURED NAMED HEREIN FOR THE POLICY PERIOD INDICATED.  
NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY  
PERTAIN, THE INSURANCE AFFORDED BY THE POLICES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF SUCH POLICES. LIMITS SHOWN  
MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	4LS 000223-01	03/31/00	03/31/02	GENERAL AGGREGATE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	BEST'S RATING:			PRODUCTS - COMP/OP AGG \$ 2,000,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	A+:XIV			PERSONAL & ADV INJURY \$ 1,000,000
	<input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT	PER PROJECT AGGREGATE			EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> XCU INCLUDED				FIRE DAMAGE (Any one fire) \$ 250,000
	<input checked="" type="checkbox"/> CROSS LIABILITY APPLIES				MED EXP (Any one person) \$ 5,000
B	AUTOMOBILE LIABILITY	810 153D2414-01	03/31/01	03/31/02	COMBINED SINGLE LIMIT \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO	BEST'S RATING:			BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	A:XV			BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE \$
	<input checked="" type="checkbox"/> HIRED AUTOS				
	<input checked="" type="checkbox"/> NON-OWNED AUTOS				
	<input checked="" type="checkbox"/> HIRED AUTO PHYS. DAMAGE				
	\$1,000 COMP/\$1,000 COLL				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY: \$
					EACH ACCIDENT \$
					AGGREGATE \$
	EXCESS LIABILITY				EACH OCCURRENCE \$
	<input type="checkbox"/> UMBRELLA FORM				AGGREGATE \$
	<input type="checkbox"/> OTHER THAN UMBRELLA FORM				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU- TORY LIMITS OTH- ER
	THE PROPRIETOR/ PARTNER/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL				EL EACH ACCIDENT \$
					EL DISEASE-POLICY LIMIT \$
					EL DISEASE-EACH EMPLOYEE \$
D	OTHER	4TG 000006-01	03/31/00	03/31/03	EACH CLAIM 1,000,000
	PROFESSIONAL/ CONT. POLLUTION LIABILITY	BEST'S RATING: A+:XV			AGGREGATE 1,000,000
					SIR 100,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS (LIMITS MAY BE SUBJECT TO DEDUCTIBLES OR RETENTIONS)

RE: OMNIBUS ENGINEERING AGREEMENT - 2001/10-YP1777

SAN MATEO COUNTY, ITS OFFICERS, AGENTS, EMPLOYEES AND SERVANTS ARE NAMED AS ADDITIONAL INSURED UNDER THE GENERAL  
AND AUTO LIABILITY POLICES AS RESPECTS WORK PERFORMED BY OR ON BEHALF OF THE NAMED INSURED. INSURANCE IS PRIMARY AND  
NOT CONTRIBUTING WITH OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED.

## CERTIFICATE HOLDER

SAN MATEO COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF CALIFORNIA  
ATTN: BRUCE E. KIRK, P.E.  
555 COUNTY CENTER, 5TH FLOOR  
REDWOOD CITY, CA 94063-1665

## CANCELLATION

SHOULD ANY OF THE POLICES DESCRIBED HEREIN BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF,  
THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE  
CERTIFICATE HOLDER NAMED HEREIN, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR  
LIABILITY OF ANY KIND UPON THE INSURER AFFORDING COVERAGE, ITS AGENTS OR REPRESENTATIVES

MARSH USA INC.

BY: William R. Plisch


MM1(8/99)

VALID AS OF: 11/20/01

<b>PRODUCER</b> Jenkins/Athens Ins Concord License No. 0545478 P. O. Box 5668 Concord CA 94524-2029 Phone: 925-798-3334 Fax: 925-671-9533	<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>
<b>INSURED</b>  Kleinfelder, Inc. Attn: SueAnn Manipon 5015 Shoreham Place San Diego CA 92122	<b>INSURERS AFFORDING COVERAGE</b>  INSURER A: American Motorist Insurance Co INSURER B: INSURER C: INSURER D: INSURER E:

COVERAGES							
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.							
INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS		
	<b>GENERAL LIABILITY</b>				EACH OCCURRENCE	\$	
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	\$	
	<input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR				MED EXP (Any one person)	\$	
					PERSONAL & ADV INJURY	\$	
					GENERAL AGGREGATE	\$	
	<b>GEN'L AGGREGATE LIMIT APPLIES PER:</b>				PRODUCTS - COM/OP AGG	\$	
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					\$	
						\$	
	<b>AUTOMOBILE LIABILITY</b>				COMBINED SINGLE LIMIT (Ea accident)	\$	
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$	
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$	
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$	
	<input type="checkbox"/> HIRED AUTOS					\$	
	<input type="checkbox"/> NON-OWNED AUTOS					\$	
						\$	
						\$	
	<b>GARAGE LIABILITY</b>				AUTO ONLY - EA ACCIDENT	\$	
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY: EAACC	\$	
					AGG	\$	
	<b>EXCESS LIABILITY</b>				EACH OCCURRENCE	\$	
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$	
	<input type="checkbox"/> DEDUCTIBLE					\$	
	<input type="checkbox"/> RETENTION \$					\$	
						\$	
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	3BG03575800 (CA ONLY) 3BG03577000 (ALL OTHER)	04/01/01	04/01/02	<input checked="" type="checkbox"/> WC STATUTORY LIMITS		
					E.L. EACH ACCIDENT	\$ 1000000	
					E.L. DISEASE - EA EMPLOYEE	\$ 1000000	
					E.L. DISEASE - POLICY LIMIT	\$ 1000000	
	<b>OTHER</b>						

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS  
10 day notice of cancellation will apply if cancelled for non-payment of premium. RE: Project Name - Omnibus Engineering Agreement - 2001, Kleinfelder Project Number 10-YP1777.

<b>CERTIFICATE HOLDER</b>	<b>N</b>	<b>ADDITIONAL INSURED; INSURER LETTER:</b>	<b>CANCELLATION</b>
San Mateo County, a political subdivision of the State of CA Bruce E. Kirk, P.E. 555 County Center, 5th Floor Redwood City CA 94063-1665			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL NOT CONSTITUTE A WAIVER OF ANY RIGHTS OR OBLIGATIONS OF THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE: 

From: **"Russ Carey" <rcarey@kleinfelder.com>**  
Organization: **Kleinfelder, Inc**  
To: **Amado Mangabat <Amado.Mangabat@marshmc.com>**  
Date sent: **Mon, 19 Nov 2001 23:04:37 -0800**  
Subject: **Re: PL Limit - \$1 Million**  
Copies to: **efox@kleinfelder.com**  
Priority: **normal**

Amado see below, I also left you a voice mail after 3:30  
yesterday. thanks Russ

Priority: normal  
Date sent: 19 Nov 2001 22:15:10 Z  
From: Amado Mangabat <Amado.Mangabat@marshmc.com>  
To: RCarey <RCarey@kleinfelder.com>  
Copies to: EFox <EFox@kleinfelder.com>  
Subject: PL Limit - \$1 Million

Russ, for your approval please:

Requestor: Ellyn Fox/Pleasanton  
Client: San Mateo County  
Project: Omnibus Engineering Agreement - 2001  
KA# 10-YP1777  
Requirement: \$1 Million PL

Approved Russ Carey 11/19/01

Please email approval if its ok to issue. Thank you.

Amado



# ADDITIONAL INFORMATION

SEA-00045/108-00 12/04/01

## PRODUCER

MARSH RISK AND INSURANCE SERVICES  
THREE EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111

## COMPANIES AFFORDING COVERAGE

COMPANY

E

COMPANY

F

101814-00001-ALL-

PLSNT

## INSURED

KLEINFELDER, INC.  
5015 SHOREHAM PLACE  
SAN DIEGO, CA 92122

COMPANY

G

COMPANY

H

## TEXT

POLICY NUMBER: 4LS000223-01  
POLICY TERM: 03/31/00 TO 03/31/02

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

ADDITIONAL INSURED - OWNERS, LESSEES, OR  
CONTRACTORS - FORM B

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization

(Please see attached)

If no entry appears above, information required to complete this endorsement will be shown in the Declaration as applicable to this endorsement.

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

PRIMARY INSURANCE: It is further agreed that such insurance as is afforded by this policy for the benefit of the above Additional Insured(s) shall be primary insurance as respects any claim, loss or liability arising out of the Named Insured's operations, and any other insurance maintained by the Additional Insured(s) shall be excess and non-contributory with the insurance provided hereunder.

CG 20 10 11 85

Copyright, Insurance Services Office, Inc. 1984

## CERTIFICATE HOLDER

SAN MATEO COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF CALIFORNIA  
ATTN: BRUCE E. KIRK, P.E.  
555 COUNTY CENTER, 5TH FLOOR  
REDWOOD CITY, CA 94063-1665

Page

INCLUDES COPYRIGHTED MATERIAL OF ACORD CORPORATION WITH ITS PERMISSION.

# ADDITIONAL INFORMATION

SEA-000491109-C0

DATE (MM/DD/YY)

12/04/01

**PRODUCER**

MARSH RISK AND INSURANCE SERVICES  
THREE EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111

**COMPANIES AFFORDING COVERAGE**

COMPANY

E

COMPANY

F

COMPANY

G

COMPANY

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101814-00001-ALL-

PLSNT

**INSURED**

KLEINFELDER, INC.  
5015 SHOREHAM PLACE  
SAN DIEGO, CA 92122

**TEXT****ADDITIONAL INSURED FOR FORM CG2010 ENDORSEMENT**

COUNTY OF SAN MATEO, ITS OFFICERS, AGENTS, EMPLOYEES AND SERVANTS  
DEPARTMENT OF PUBLIC WORKS  
555 COUNTY CENTER, 5TH FLOOR  
REDWOOD CITY, CA 94063

RE: OMNIBUS ENGINEERING AGREEMENT - 2001

**CERTIFICATE HOLDER**

SAN MATEO COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF CALIFORNIA  
ATTN: BRUCE E. KIRK, P.E.  
555 COUNTY CENTER, 5TH FLOOR  
REDWOOD CITY, CA 94063-1665

Page

**AGREEMENT FOR OMNIBUS ENGINEERING SERVICES  
IN SAN MATEO COUNTY**

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**THIS AGREEMENT**, entered into this \_\_\_\_ day of \_\_\_\_\_ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, CA 94063-1665, hereinafter called 'COUNTY' and BKF Engineers, hereinafter called 'CONSULTANT'.

**WITNESSETH:**

**WHEREAS**, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of **COUNTY**; and

**WHEREAS**, the **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete, hereinafter referred to as the "Project"; and

**WHEREAS**, **CONSULTANT** is a competent Professional Engineer qualified and with employees duly licensed to perform such engineering services in connection with said project, and the parties hereto desire to enter into an Agreement for said engineering services.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO** as follows:

**SECTION 1. SCOPE OF PROJECT**

The **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete. The type of projects may include preliminary study, design and/or construction management of street improvement, slides repairs, drainage system improvement, sanitary sewers improvement, or traffic control and channelization improvements.

The Scope of the Project to be executed by **CONSULTANT** shall be as described in Scope of Services for the Omnibus Engineering Services attached hereto as Exhibit "A", and by reference made as part of this Agreement.

**SECTION 2. GENERAL REQUIREMENTS**

(a) When a project is identified that needs consultant services, the **COUNTY** will issue a preliminary task order for each specific project to the **CONSULTANT**. The **CONSULTANT** will then propose detailed scope of services, a 'not-to-exceed' fee, and a timetable for completing the proposed project. Once an agreement is reached for a specific

project, the **COUNTY** will issue a Final Task Order, herein after called '**Task Order**' for the **CONSULTANT** to proceed.

(b) **CONSULTANT'S** work shall begin within ten (10) days after receiving **COUNTY'S** Notice to Proceed.

(c) The **CONSULTANT** will be responsible to the **COUNTY** in matters pertaining to the contractual obligations, approvals, and interpretations required for this project. The Director of Public Works or the respective designated representative will be the representative of the **COUNTY** for all purposes under this Agreement.

(d) The **CONSULTANT** as part of the services to be performed, will keep the **COUNTY** apprised at all times of the progress of the work.

(e) The **CONSULTANT** shall meet with **COUNTY** to develop a time schedule to be prepared and kept up to date by **CONSULTANT** of the anticipated program to complete services described in Exhibit "A" and any approved final task orders.

(f) Computer software used by the **CONSULTANT** to produce the documents required in this Agreement shall be compatible with the **COUNTY'S** current versions of software. The software currently used by the **COUNTY** is AutoCAD version 14, Softdesk version 8, Microsoft Office 2000 for Windows with Access, Excel and Word. During all phases of this Agreement and at the time of final submittal of report, the **CONSULTANT** shall furnish the **COUNTY** with all electronic media acceptable to the **COUNTY**, in addition to the number of copies specified in the Agreement.

(g) Any Computer Aided Design and Drafting (CADD) documents, drawings, and dated files provided by **CONSULTANT** in accordance with the services covered by this Agreement or as a courtesy to **COUNTY** do not constitute the delivery of **CONSULTANT'S** professional work product. The electronic media may be damaged during transfer or altered so paper prints shall control where there are any differences between the paper prints and the electronic media. **CONSULTANT** makes no warranties either express or implied, of merchantability, applicability, compatibility with **COUNTY'S** computer equipment, or software, or the fitness for any particular purpose for the electronic media of that the electronic media contains no defects or are virus free. Modifications or use by **COUNTY** of any documents or electronics media prepared by **CONSULTANT** for any purpose or project other than the project subject to this Agreement shall be at **COUNTY'S** sole risk. **COUNTY** agrees to indemnify and hold the **CONSULTANT** harmless from any claims, damages, liabilities, or costs, including attorney's fees and costs of defense arising from the **COUNTY'S** reuse or modification of any documents of electronic media prepared by **CONSULTANT** without the prior written consent on **CONSULTANT**.

### **SECTION 3. ENGINEERING SERVICES BY CONSULTANT**

Exhibit "A", attached hereto, includes a list of the type of projects for which the Consultant may be requested to provide services. The Task Order(s) will be issued by the County to the Consultant and will define a specific project with a scope of work to accomplish said project.

In consideration of payment by COUNTY to CONSULTANT, as hereinafter provided, CONSULTANT agrees to perform all Engineering Services described in the approved Task Order(s) necessary to complete the project.

#### **SECTION 4. GENERAL OBLIGATIONS OF CONSULTANT**

##### **4.1 CONSULTANT PERSONNEL**

The CONSULTANT shall provide the COUNTY with resumes of key staff members to be assigned to said project including the project manager and project engineer in advance of commencing any engineering services, as outlined under Exhibit "A" of this Agreement and any approved final task orders. Once the COUNTY approves the key staff to be assigned to the project, any substitutions or additions shall be subject to written approval by the COUNTY. The COUNTY reserves the right to reject any personnel the CONSULTANT proposes for use on the project. Approval of the use of staff from work sites other than the work sites of the engineering staff initially identified to work on said project shall be subject to written approval by the COUNTY.

CONSULTANT represents that it is qualified to furnish the services described under this Agreement. CONSULTANT further declares that one or more members or employees of its firm and that of its subconsultants, if so required by the State, if any, are licensed by the State of California to perform their services and that these services will be performed by them or under their direct supervision. CONSULTANT shall furnish to COUNTY for approval, upon execution of this Agreement, a list of all firms or corporations to be employed as subconsultants.

Nothing in this Agreement abrogates the professional responsibilities of the CONSULTANT and/or subconsultants with respect to design defects, errors, omissions, or malpractice.

##### **4.2 NON-DISCRIMINATION**

CONSULTANT, with regard to the work performed under this Agreement, shall not discriminate on the grounds of race, religion, color, national origin, sex, sexual orientation, or age in the selection of CONSULTANT'S employees or in the retention of sub-contractors, including procurement of materials and leases of equipment. The CONSULTANT and sub-contractors shall provide the COUNTY with a copy of their affirmative action program, for review and approval, which should attempt to achieve an ethnic composition of their work forces which approximates the ethnic composition of San Mateo County.

#### 4.3 CORRECTIONS AND/OR REVISIONS

**CONSULTANT** shall make and provide to **COUNTY** all necessary corrections and/or revisions to the project analysis when it is determined by the Director of Public Works or his designated representative, that such changes are necessary for the project and are due to oversights, omissions or errors of **CONSULTANT**.

Payment to **CONSULTANT** for making any such necessary corrections and/or revisions, addendum, or contract change orders which are determined by the Director of Public Works or the respective designated representative to be due to the oversights, omissions, or errors of the **CONSULTANT** shall be considered as being included in the Basic Services fee to be paid to **CONSULTANT** for Basic Services described in Exhibit "A" of this Agreement and any approved final task orders. It is expressly understood that no additional payment shall be considered or made for these services.

#### SECTION 5. GENERAL OBLIGATIONS OF COUNTY

(a) **COUNTY** shall be responsible for providing any available data required by the **CONSULTANT** as stipulated in any approved final task orders.

(b) **COUNTY** shall examine documents submitted by **CONSULTANT** and shall render comments and direction pertaining thereto promptly (up to two weeks or otherwise upon written agreement by **COUNTY** and **CONSULTANT**), as stipulated in approved final Task Orders.

#### SECTION 6. PAYMENT BY COUNTY

In consideration of the furnishing of the engineering services by **CONSULTANT**, as herein provided, **COUNTY** agrees to pay **CONSULTANT** for engineering services described in Exhibit "A" of this Agreement and any approved Task Order(s) upon receipt of properly completed monthly invoices for work performed as described in said Task Order(s). The PROJECT TOTAL "Not-to-Exceed" amount will be stipulated in each Task Order. Any cost for services deemed necessary by the **COUNTY** for completion of each Task Order shall be authorized in writing prior to proceeding with the work. Billing rates for services provided under this Agreement shall be as set forth on Exhibit "B" attached hereto and by reference made a part of this Agreement.

The "Not to Exceed" amount for this agreement shall be \$200,000 unless said amount is authorized to be increased by the County Board of Supervisors. Specific projects that may be assigned to the Consultant shall have a Project Total 'Not To Exceed' which shall be stipulated in the Task Order. The sum of individual Task Order fees for multiple projects that may be assigned shall not exceed the Agreement 'Not To Exceed' without prior approval by the County Board of Supervisors.

Payments for services performed are due and payable upon completion and approval of

each Task Order by the Director of Public Works or the respective designated representative should the project be accomplished within a single billing period.

#### **6.1 METHOD OF PAYMENT**

Payment shall be made by COUNTY only for services rendered and upon submission of invoice after approval of each Task Order should the project be accomplished within a single billing period. Partial progress payment for items accomplished within each Task Order shall be made by COUNTY upon submission of invoice and approval of the completion of items identified in the Task Order.

#### **6.2 PAYMENT UPON SUSPENSION, ABANDONMENT OF PROJECT, OR TERMINATION OF AGREEMENT**

If any Task Order is suspended for more than thirty (30) calendar days, or abandoned in all or in part, CONSULTANT shall be paid for its services performed prior to receipt of thirty (30) days written notice from COUNTY of such suspension or abandonment, together with reimbursable expenses then due. In the event that the COUNTY abandons any Final Task Order the COUNTY may specifically authorize additional work necessary to properly close out the project.

If this Agreement or any Task Order is suspended or terminated due to fault of CONSULTANT, COUNTY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services that were satisfactorily performed.

#### **6.3 PERFORMANCE OF SERVICES IF CONSULTANT IS NOT DILIGENT IN PERFORMING WORK**

In the event CONSULTANT is not diligent in pursuing the designated services as specified in each Task Order, the Director of Public Works or the respective designated representative may, at his option, seven (7) days after written notice to CONSULTANT, perform any such required engineering services or retain a different consultant to do the same, and the cost associated with having said work completed by a means other than the CONSULTANT will be retained from any sums not yet paid to the CONSULTANT.

### **SECTION 7. PROGRESS AND COMPLETION**

#### **7.1 Notice To Proceed**

The Notice to Proceed for each Task Order shall be a letter, or similar instrument, signed by the Director of Public Works or the respective designated representative, and shall be labeled "Notice to Proceed". Such "Notice to Proceed" shall contain a reference to the work authorized by said Notice.

## **7.2 Time of Completion of each Task**

**CONSULTANT** agrees to perform the engineering services for the type of projects generally described in Exhibit "A" and described specifically by a Task Order within the time limits set forth in the project schedule required by Section 2 (d) of this Agreement. Any change in the scope of services as outlined in the Task Order will require a revised time table.

**COUNTY** agrees to exercise due diligence in performing its tasks to implement the **CONSULTANT'S** time schedule.

## **7.3 COUNTY'S Review and Approval**

Between each phase of work and at critical progress points there shall be a review and approval period by **COUNTY** and other agencies. **COUNTY** shall reject **CONSULTANT'S** submittal if changes and/or comments transmitted to **CONSULTANT** by **COUNTY** during previous review were not addressed by **CONSULTANT** in current submittal.

## **SECTION 8. CHANGES IN WORK**

The Director of Public Works or the respective designated representative may order major changes in scope or character of work in writing which are mutually acceptable, either decreasing or increasing the amount of **CONSULTANT'S** services. In the event that such changes are ordered, **CONSULTANT** shall be entitled to compensation for all work previously directed by **COUNTY** and performed by **CONSULTANT** prior to receipt of notice of change. Increased compensation for major changes shall be determined in accordance with Section 6 of the Agreement, but in no event shall **COUNTY** be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by **COUNTY**.

In the event that major changes are ordered pursuant to this Section, the schedule for progress and completion in Section 7 of this Agreement and compensation under Section 6 of this Agreement, shall be adjusted by negotiation between **CONSULTANT** and **COUNTY**.

## **SECTION 9. RECORDS**

The **CONSULTANT** and all subcontractors under its employ, supervision and/or control shall retain all financial and technical records for inspection for a period of not less than three (3) years from completion and approval of each final task order by the **COUNTY** or upon termination of Agreement.

Records of costs pertaining to the Project shall be kept by **CONSULTANT** on a generally recognized accounting basis and shall be available for **COUNTY'S** review at mutually convenient times.



## **SECTION 10. INTEREST OF CONSULTANT/CONSULTANT INDEPENDENT OF COUNTY**

In accepting this Agreement, **CONSULTANT** covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. **CONSULTANT** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed throughout the term of this Agreement. **CONSULTANT** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **COUNTY**.

In the performance of the engineering services necessary for compliance with this Agreement, **CONSULTANT**, and any of its subconsultants or employees, shall be, and is at all times considered, an Independent Contractor, and is not an agent or employee of **COUNTY**. **CONSULTANT** has, and shall retain, the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his engineering services hereunder to include any and all subconsultants employed for the project described herein. **CONSULTANT** shall be solely responsible for all matters relating to payment of his employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for his own acts and those of his subordinates and employees.

## **SECTION 11. GENERAL PROVISIONS**

(a) The **CONSULTANT** acknowledges that time is of the essence for all projects defined in approved Task Order(s) and agrees to complete all work within the time frame as stipulated within said Task Order(s) commencing with the receipt of the **COUNTY'S** "Notice to Proceed". Time extensions shall only be approved with prior written approval of the County and failure to complete services according to a mutually agreed upon schedule may be grounds for contract termination.

(b) The **CONSULTANT** upon becoming aware of factors which would result in delays shall be responsible for alerting **COUNTY** to potential delays well in advance in order that possible mitigation measures may be evaluated. **CONSULTANT** shall detail the nature and reasons for potential delays and shall provide the **COUNTY** with possible mitigation measures for consideration.

(c) On all matters pertaining to Task Orders to be performed and the time taken by **CONSULTANT** to perform such services, the decision of the Director of Public Works or the respective designated representative will be final after discussions between **COUNTY** and **CONSULTANT**.

(d) The **CONSULTANT** warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the **CONSULTANT**, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person,

other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the **COUNTY** shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

#### **SECTION 12. OWNERSHIP OF DOCUMENTS**

All tracings, sketches, plans, specifications, estimates, maps, design calculations, quantity calculations, supporting documents, studies, survey notes, and other documents prepared by **CONSULTANT** or subconsultants under the terms of this Agreement shall be delivered to and become the property of the **COUNTY** without restriction or limitation on their use. However, should **COUNTY** re-use or utilize data or drawings not for their intended use then **COUNTY** shall be solely liable and indemnify **CONSULTANT** against such use. Computer files used by **CONSULTANT** to produce the final set of plans and specifications shall also be delivered in AutoCAD, Softdesk, Access, Excel and Word electronic form on compact disks, 3-1/2" floppy diskettes or other media acceptable to the **COUNTY** at no additional cost and become the property of the **COUNTY**.

#### **SECTION 13. TERM OF AGREEMENT**

The Term of this Agreement shall be for two ( 2 ) years from the date of execution of the Agreement by the County. The term of the Agreement may be extended, in one (1) year increments. Said approval to extend the Agreement beyond the initiate two year term of the Agreement shall be accomplished by written notification from the Director of Public Works or his designated representative.

#### **SECTION 14. TERMINATION OF AGREEMENT**

The **COUNTY** reserves the right to terminate this Agreement, at no fault of either party to this Agreement, with thirty (30) days written notice by the Director of Public Works or the respective designated representative to the **CONSULTANT**.

The **COUNTY** is under no obligation to employ the **CONSULTANT** for all phases of work as outlined in this Agreement, but reserves the right to employ other consulting firms for the various phases of work. If, in the **COUNTY**'s opinion, the **CONSULTANT** is without cause not diligent in pursuing any of the engineering services provided for in Section 3 of this Agreement, the Director of Public Works or the respective designated representative may, at his option, with no more than seven (7) days after written notice to **CONSULTANT**, terminate this Agreement for engineering services or retain a different consultant to do the same, and retain the appropriate portion of any sums not yet paid to the **CONSULTANT**. Lack of diligence may include but not be limited to: lack of compliance with agreed upon schedule, submittal of partially completed required documents, and lack of quality control.

**CONSULTANT** agrees that failure to carry out the requirements as set forth in this section shall constitute a breach of contract and after appropriate notification, may result in termination of the Agreement by the **COUNTY** as the **COUNTY** deems appropriate.

#### **SECTION 15. NON-ASSIGNMENT OF AGREEMENT**

This Agreement shall not be assigned, sublet or transferred by **CONSULTANT**, in whole, or in part without the written consent of the **COUNTY**. If the **CONSULTANT** elects to subcontract the soil investigation, photogrammetric mapping, traffic engineering, surveying, seismic studies or any other portions of the contract, **CONSULTANT** shall notify the Director of Public Works or the respective designated representative in writing with whom **CONSULTANT** proposes to subcontract. The approval for use of subcontractors for any aspect of the work not initially identified as part of the design team shall only be after written approval from the **COUNTY**, as stipulated in Section 11 of this Agreement.

#### **SECTION 16. HOLD HARMLESS AND INSURANCE CLAUSES**

##### **16.1 HOLD HARMLESS**

The **CONSULTANT** shall indemnify and save harmless the **COUNTY**, its officers, agents, employees and servants from all claims, suits or actions brought for, or on account of, injuries to or death of any person including **CONSULTANT**, or damage to property of any kind whatsoever and to whomsoever, but only to the extent that they result from the negligent performance of any work required by this Agreement of **CONSULTANT**, provided that this shall not apply to injuries or damage for which **COUNTY** has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of the **CONSULTANT** to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

##### **16.2 INSURANCE**

The **CONSULTANT** shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the Director of Public Works. The **CONSULTANT** shall furnish the **COUNTY** with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual liability provision extending the **CONSULTANT'S** coverage to include the contractual liability assumed by the **CONSULTANT** pursuant to this Agreement, subject to the terms, conditions, limitations and exclusions of the policy. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given by **CONSULTANT**, in writing, to the **COUNTY** of any cancellation or modification of the policy(ies) concerning the insurance requirements set forth in this Agreement.

### 16.2.1 Workers' Compensation and Employer's Liability Insurance

The **CONSULTANT** shall have in effect during the entire life of this Agreement Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In signing this Agreement, the **CONSULTANT** makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

### 16.2.2 Liability Insurance

The **CONSULTANT** shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by this Agreement from any and all operations under this Agreement, whether such operations be by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, and in the aggregate, and shall be not less than the amount specified below:

Such insurance shall include:

- (a) Commercial General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

The **CONSULTANT** shall provide proof of continuing professional liability insurance to **COUNTY** in the amount of \$1,000,000 for a period of two (2) years after acceptance by **COUNTY** of the work constructed in conformance with **CONSULTANT'S** design and any subsequent revisions/modifications made by **CONSULTANT**. **COUNTY** and its officers, agents, employees and servants shall be included as additional insured on any such policies of insurance, except professional liability, which shall also contain a provision that the insurance afforded thereby to the **COUNTY**, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, but only to the extent of the **CONSULTANT'S** negligence, and that if the **COUNTY** or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provisions of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the **COUNTY**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

## **SECTION 17. DISPUTES AND REMEDIES**

Any dispute between the parties to this Agreement regarding the interpretation or application of any provision contained herein shall be resolved in a court of competent jurisdiction pursuant to the laws of the State of California. Each party shall bear its own costs and attorneys fees associated with the resolution of the dispute.

## **SECTION 18. JOBSITE SAFETY AND ENVIRONMENTAL PROTECTION**

Neither the professional activities of the **CONSULTANT** nor the presence of the **CONSULTANT** or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety or environmental protection precautions required by any regulatory agencies. The **CONSULTANT** and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The **CONSULTANT** agrees that the General Contractor is solely responsible for jobsite safety, and environmental protection, and warrants that this intent shall be made evident in the **COUNTY'S** Agreement with the General Contractor. The **CONSULTANT** also agrees that the **COUNTY**, the **CONSULTANT** and any other **COUNTY CONSULTANTS** that may be providing services at the construction site shall be indemnified and shall be made additional insured's under the General Contractor's general liability insurance policy.

## **SECTION 19. Employee Benefits**

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. **Exhibit "C" and "D" Attached.**

**SECTION 20. Non-Discrimination**

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

**Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:**

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

**SECTION 21. NOTIFICATIONS**

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

**COUNTY:**

Neil R. Cullen, Director of Public Works  
(or his designated representative)  
COUNTY of San Mateo, DPW  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

**CONSULTANT:**

David Evans, Principal / Vice President  
BKF Engineers  
540 Price Avenue  
Redwood City, CA 940631411

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands on the day and year first above written.

"COUNTY"

SAN MATEO COUNTY

BY

\_\_\_\_\_  
Michael D. Nevin, President  
Board of Supervisors, County of San Mateo

ATTEST:

\_\_\_\_\_  
Clerk of said Board

"CONSULTANT"

BKF ENGINEERS.  
BY: David P Evans  
DAVID P EVANS.  
VICE PRESIDENT.



**Exhibit "A"****Engineering Services**

The Consultant shall provide services to include, but not be limited to, preliminary studies, topographic surveys, geotechnical studies, project concept development, design, construction management for a variety of public works type projects. The type public works projects that the consultant may be requested to provide services for could include the following:

1. Street Improvements
2. Land Movement Repair
3. Hydraulic Studies
4. Storm Sewer Improvements
5. Sanitary Sewer Improvements
6. Traffic Control and Circulation
7. Landfill Remediation and Repair
8. Stream/Creek Remediation

The above represent general categories of possible type projects. The Consultant would be assigned a specific project with a specified fee by means of a Project Task Order as described elsewhere in this Agreement.

**Exhibit "B"**

**Hourly Rate Schedule**

SEE ATTACHED

*Notes:*

1. Allowance for Travel Expenses shall be at the rate of \$0.345 per mile.
2. The hourly rates indicated above shall remain in effect for the term of the Agreement, unless adjustments are approved in writing, in advance of accruing cost at new rates, by the County.



**PROFESSIONAL PERSONNEL SERVICE FEES  
JANUARY 1, 2002 - DECEMBER 31, 2002**

**PERSONNEL**

**HOURLY RATES**

**ENGINEERING**

Senior Project Manager	\$128.00 - \$ 138.00
Project Manager	\$ 125.00
Senior Engineer, Engineer IV	\$ 116.00
Engineer I, II, III	\$ 83.00 - \$ 95.00 - \$ 107.00

**PLANNING**

Project Manager	\$ 125.00
Senior Planner	\$ 98.00
Associate Planner	\$ 92.00
Assistant Planner	\$ 85.00
Planning Assistant	\$ 73.00

**SURVEYING**

Project Manager	\$ 125.00
Surveyor I, II, III	\$ 83.00 - \$95.00 - \$ 107.00
Field Surveyor	\$ 107.00
2-Person Survey Party	\$ 190.00
3-Person Survey Party	\$ 230.00 - \$ 273.00

**DESIGN AND DRAFTING**

Technician I, II, III	\$ 80.00 - \$ 86.00 - \$ 92.00
Drafter I, II, III, IV	\$ 61.00 - \$ 67.00 - \$ 75.00 - \$ 82.00

**CONSTRUCTION ADMINISTRATION**

Senior Construction Administrator	\$125.00
Resident Engineer	\$93.00
Field Engineer	\$ 83.00 - \$ 95.00 - \$ 107.00

**SERVICES AND EXPENSES**

Project Assistant	\$ 52.00
Clerical/Administrative Assistant	\$ 46.00
Computer/Plotter	\$ 9.00
Global Positioning System Receiver (each)	\$ 25.00

Principals' time on projects is chargeable at \$155.00 - \$180.00 per hour.

Charges for outside services, equipment, and facilities not furnished directly by Brian Kangas Foulk will be billed at cost plus 10%. Such charges may include, but shall not be limited to printing and reproduction services; shipping, delivery, and courier charges; subconsultant fees and expenses; special fees, permits, and insurance; transportation on public carriers, meals, and lodging; and consumable materials. Mileage will be charged at \$0.35 per mile

Monthly invoices are due within 30 days from invoice date. Interest will be charged at 0.833% per month on past due accounts.

Expert witness/litigation rates are available upon request.

**Exhibit "C"**

**Equal Benefits Ordinance**

**CHAPTER 2.93**

**ORDINANCE NO 04026**

**An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code  
to Provide for Non-Discrimination by County Contractors in the  
Provision of Employee Benefits**

**WHEREAS**, employee benefits routinely comprise a significant proportion  
of total employee compensation; and

**WHEREAS**, discrimination in the provision of employee benefits between  
employees with domestic partners and employees with spouses results in unequal pay for equal  
work; and

**WHEREAS**, County of San Mateo law prohibits discrimination based on marital status  
and/or sexual orientation; and

**WHEREAS**, it is the County's intent, through the contracting practices outlined herein,  
to equalize the total compensation between similarly situated employees with spouses and  
employees with domestic partners;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO  
AS FOLLOWS:**

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new  
Chapter 2. 93 to read as follows:

**Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**

**2.93.010 Definitions.**

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**2.93.020 Discrimination in the provision of benefits prohibited.**

- (a) No Contractor on a County Contract shall discriminate in the provision of

Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;

2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

#### **2.93.030 Application of Chapter.**

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the

Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

#### **2.93.040 Powers and duties of the County Manager.**

The County Manager's office shall have the authority to:

(a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.

(b) Receive notification from employees of Contractors regarding violations of this Chapter.

(c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:

1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
2. Contractual remedies, including, but not limited to termination of contract.
3. Liquidated damages in the amount of \$2,500.

(d) Examine Contractors' benefit programs covered by this chapter;

(e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;



(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

#### **2.93.050 Date of Application.**

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

## Exhibit "D"

COUNTY OF SAN MATEO  
 Equal Benefits Compliance Declaration Form  
 (To Be Submitted with Proposal)

## I Vendor Identification

Name of Contractor: BKE ENGINEERS  
 Contact Person: DAVID EVANS  
 Address: 540 PRICE AVE.  
REDWOOD CITY, CA 94063  
 Phone Number: 650-482-6333 Fax Number: 650-482-6399

## II Employees

Does the Contractor have any employees? X Yes        No  
 Does the Contractor provide benefits to spouses of employees? X Yes        No

\*If the answer to one or both of the above is no, please skip to Section IV.\*

## III Equal Benefits Compliance (Check One)

- ☒ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- ☐ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- ☐ No, the Contractor does not comply.
- ☐ The Contractor is under a collective bargaining agreement which began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date).

## IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 15 day of Nov, 2001 at Redwood City, CA

(City)

(State)

David P. Evans  
 Signature

DAVID P. EVANS  
 Name (Please Print)

VICE PRESIDENT  
 Title

941729773  
 Contractor Tax Identification Number

F:\USERS\BRUCEK\WORD\CONSULT\OMNIBUS\ENGAGRE1

Client#: 45

BKFENGINE

<b>ACORD CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YY) 12/4/01
<b>PRODUCER</b> Dealey, Renton & Associates P. O. Box 12675 Oakland, CA 94604-2675 510 465-3090 Edi Barrow		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
<b>INSURED</b> BKF Engineers Formerly Brian Kangas Foulk 540 Price Avenue Redwood City, CA 94063		<b>INSURERS AFFORDING COVERAGE</b> INSURER A: Fireman's Fund Insurance Co. INSURER B: The American Insurance Company INSURER C: American Automobile Ins. Co. INSURER D: Security Ins. Co. of Hartford INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
B	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC	MZX80786266	09/01/01	09/01/02	EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	MZA80225091	09/01/01	09/01/02	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	<b>EXCESS LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	XEK00084713577	09/01/01	09/01/02	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$ \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	WZP80884302	07/01/01	07/01/02	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEES \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	<b>OTHER Professional Liability</b>	PL700873	07/15/99	07/01/02	\$3,000,000 per claim \$3,000,000 annl aggr.

## DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

RE: Omnibus Engineering Agreement. The County of San Mateo, its officers, agents, employees and servants are additional insured to general & auto liability.

<b>CERTIFICATE HOLDER</b>	<b>ADDITIONAL INSURED/INSURER LETTER:</b>	<b>CANCELLATION</b>
County of San Mateo Department of Public Works Attn: Bruce E. Kirk, PE 555 County Center, 5th Fl Redwood City, CA 94063-1665		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL FURNISH TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. <del>THIS CERTIFICATE IS NOT VALID UNLESS IT IS CANCELLED BY THE ISSUING INSURER.</del> AUTHORIZED REPRESENTATIVE <i>Edith C. Barrow</i>

POLICY NUMBER: MZX80786266

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES or  
CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name of Person or Organization:

County of San Mateo  
Department of Public Works  
Attn: Bruce E. Kirk, PE  
555 County Center, 5th Fl  
Redwood City, CA 94063-1665

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

RE: Omnibus Engineering Agreement. The County of San Mateo, its officers, agents, employees and servants are additional insured to general & auto liability.

PRIMARY INSURANCE:

IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS INSURANCE.

**AGREEMENT FOR OMNIBUS ENGINEERING SERVICES  
IN SAN MATEO COUNTY**

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**THIS AGREEMENT**, entered into this \_\_\_\_ day of \_\_\_\_\_ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, CA 94063-1665, hereinafter called '**COUNTY**' and Wilsey Ham, hereinafter called '**CONSULTANT**'.

**W I T N E S S E T H:**

**WHEREAS**, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of **COUNTY**; and

**WHEREAS**, the **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete, hereinafter referred to as the "Project"; and

**WHEREAS**, **CONSULTANT** is a competent Professional Engineer qualified and with employees duly licensed to perform such engineering services in connection with said project, and the parties hereto desire to enter into an Agreement for said engineering services.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO** as follows:

**SECTION 1. SCOPE OF PROJECT**

The **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete. The type of projects may include preliminary study, design and/or construction management of street improvement, slides repairs, drainage system improvement, sanitary sewers improvement, or traffic control and channelization improvements.

The Scope of the Project to be executed by **CONSULTANT** shall be as described in Scope of Services for the Omnibus Engineering Services attached hereto as Exhibit "A", and by reference made as part of this Agreement.

**SECTION 2. GENERAL REQUIREMENTS**

(a) When a project is identified that needs consultant services, the **COUNTY** will issue a preliminary task order for each specific project to the **CONSULTANT**. The **CONSULTANT** will then propose detailed scope of services, a 'not-to-exceed' fee, and a timetable for completing the proposed project. Once an agreement is reached for a specific

project, the **COUNTY** will issue a Final Task Order, herein after called '**Task Order**' for the **CONSULTANT** to proceed.

(b) **CONSULTANT'S** work shall begin within ten (10) days after receiving **COUNTY'S** Notice to Proceed.

(c) The **CONSULTANT** will be responsible to the **COUNTY** in matters pertaining to the contractual obligations, approvals, and interpretations required for this project. The Director of Public Works or the respective designated representative will be the representative of the **COUNTY** for all purposes under this Agreement.

(d) The **CONSULTANT** as part of the services to be performed, will keep the **COUNTY** apprised at all times of the progress of the work.

(e) The **CONSULTANT** shall meet with **COUNTY** to develop a time schedule to be prepared and kept up to date by **CONSULTANT** of the anticipated program to complete services described in Exhibit "A" and any approved final task orders.

(f) Computer software used by the **CONSULTANT** to produce the documents required in this Agreement shall be compatible with the **COUNTY'S** current versions of software. The software currently used by the **COUNTY** is AutoCAD version 14, Softdesk version 8, Microsoft Office 2000 for Windows with Access, Excel and Word. During all phases of this Agreement and at the time of final submittal of report, the **CONSULTANT** shall furnish the **COUNTY** with all electronic media acceptable to the **COUNTY**, in addition to the number of copies specified in the Agreement.

(g) Any Computer Aided Design and Drafting (CADD) documents, drawings, and dated files provided by **CONSULTANT** in accordance with the services covered by this Agreement or as a courtesy to **COUNTY** do not constitute the delivery of **CONSULTANT'S** professional work product. The electronic media may be damaged during transfer or altered so paper prints shall control where there are any differences between the paper prints and the electronic media. **CONSULTANT** makes no warranties either express or implied; of merchantability, applicability, compatibility with **COUNTY'S** computer equipment, or software, or the fitness for any particular purpose for the electronic media of that the electronic media contains no defects or are virus free. Modifications or use by **COUNTY** of any documents or electronics media prepared by **CONSULTANT** for any purpose or project other than the project subject to this Agreement shall be at **COUNTY'S** sole risk. **COUNTY** agrees to indemnify and hold the **CONSULTANT** harmless from any claims, damages, liabilities, or costs, including attorney's fees and costs of defense arising from the **COUNTY'S** reuse of modification of any documents of electronic media prepared by **CONSULTANT** without the prior written consent on **CONSULTANT**.

### **SECTION 3. ENGINEERING SERVICES BY CONSULTANT**

Exhibit "A", attached hereto, includes a list of the type of projects for which the Consultant may be requested to provide services. The Task Order(s) will be issued by the County to the Consultant and will define a specific project with a scope of work to accomplish said project.

In consideration of payment by COUNTY to CONSULTANT, as hereinafter provided, CONSULTANT agrees to perform all Engineering Services described in the approved Task Order(s) necessary to complete the project.

### **SECTION 4. GENERAL OBLIGATIONS OF CONSULTANT**

#### **4.1 CONSULTANT PERSONNEL**

The CONSULTANT shall provide the COUNTY with resumes of key staff members to be assigned to said project including the project manager and project engineer in advance of commencing any engineering services, as outlined under Exhibit "A" of this Agreement and any approved final task orders. Once the COUNTY approves the key staff to be assigned to the project, any substitutions or additions shall be subject to written approval by the COUNTY. The COUNTY reserves the right to reject any personnel the CONSULTANT proposes for use on the project. Approval of the use of staff from work sites other than the work sites of the engineering staff initially identified to work on said project shall be subject to written approval by the COUNTY.

CONSULTANT represents that it is qualified to furnish the services described under this Agreement. CONSULTANT further declares that one or more members or employees of its firm and that of its subconsultants, if so required by the State, if any, are licensed by the State of California to perform their services and that these services will be performed by them or under their direct supervision. CONSULTANT shall furnish to COUNTY for approval, upon execution of this Agreement, a list of all firms or corporations to be employed as subconsultants.

Nothing in this Agreement abrogates the professional responsibilities of the CONSULTANT and/or subconsultants with respect to design defects, errors, omissions, or malpractice.

#### **4.2 NON-DISCRIMINATION**

CONSULTANT, with regard to the work performed under this Agreement, shall not discriminate on the grounds of race, religion, color, national origin, sex, sexual orientation, or age in the selection of CONSULTANT'S employees or in the retention of sub-contractors, including procurement of materials and leases of equipment. The CONSULTANT and sub-contractors shall provide the COUNTY with a copy of their affirmative action program, for review and approval, which should attempt to achieve an ethnic composition of their work forces which approximates the ethnic composition of San Mateo County.



#### 4.3 CORRECTIONS AND/OR REVISIONS

**CONSULTANT** shall make and provide to **COUNTY** all necessary corrections and/or revisions to the project analysis when it is determined by the Director of Public Works or his designated representative, that such changes are necessary for the project and are due to oversights, omissions or errors of **CONSULTANT**.

Payment to **CONSULTANT** for making any such necessary corrections and/or revisions, addendum, or contract change orders which are determined by the Director of Public Works or the respective designated representative to be due to the oversights, omissions, or errors of the **CONSULTANT** shall be considered as being included in the Basic Services fee to be paid to **CONSULTANT** for Basic Services described in Exhibit "A" of this Agreement and any approved final task orders. It is expressly understood that no additional payment shall be considered or made for these services.

#### SECTION 5. GENERAL OBLIGATIONS OF COUNTY

(a) **COUNTY** shall be responsible for providing any available data required by the **CONSULTANT** as stipulated in any approved final task orders.

(b) **COUNTY** shall examine documents submitted by **CONSULTANT** and shall render comments and direction pertaining thereto promptly (up to two weeks or otherwise upon written agreement by **COUNTY** and **CONSULTANT**), as stipulated in approved final Task Orders.

#### SECTION 6. PAYMENT BY COUNTY

In consideration of the furnishing of the engineering services by **CONSULTANT**, as herein provided, **COUNTY** agrees to pay **CONSULTANT** for engineering services described in Exhibit "A" of this Agreement and any approved Task Order(s) upon receipt of properly completed monthly invoices for work performed as described in said Task Order(s). The PROJECT TOTAL "Not-to-Exceed" amount will be stipulated in each Task Order. Any cost for services deemed necessary by the **COUNTY** for completion of each Task Order shall be authorized in writing prior to proceeding with the work. Billing rates for services provided under this Agreement shall be as set forth on Exhibit "B" attached hereto and by reference made a part of this Agreement.

The "Not to Exceed" amount for this agreement shall be **\$200,000** unless said amount is authorized to be increased by the County Board of Supervisors. Specific projects that may be assigned to the Consultant shall have a Project Total 'Not To Exceed' which shall be stipulated in the Task Order. The sum of individual Task Order fees for multiple projects that may be assigned shall not exceed the Agreement 'Not To Exceed' without prior approval by the County Board of Supervisors.

Payments for services performed are due and payable upon completion and approval of each Task Order by the Director of Public Works or the respective designated representative should the project be accomplished within a single billing period.

#### **6.1 METHOD OF PAYMENT**

Payment shall be made by COUNTY only for services rendered and upon submission of invoice after approval of each Task Order should the project be accomplished within a single billing period. Partial progress payment for items accomplished within each Task Order shall be made by COUNTY upon submission of invoice and approval of the completion of items identified in the Task Order.

#### **6.2 PAYMENT UPON SUSPENSION, ABANDONMENT OF PROJECT, OR TERMINATION OF AGREEMENT**

If any Task Order is suspended for more than thirty (30) calendar days, or abandoned in all or in part, **CONSULTANT** shall be paid for its services performed prior to receipt of thirty (30) days written notice from **COUNTY** of such suspension or abandonment, together with reimbursable expenses then due. In the event that the **COUNTY** abandons any Final Task Order the **COUNTY** may specifically authorize additional work necessary to properly close out the project.

If this Agreement or any Task Order is suspended or terminated due to fault of **CONSULTANT**, **COUNTY** shall be obligated to compensate **CONSULTANT** only for that portion of **CONSULTANT'S** services that were satisfactorily performed.

#### **6.3 PERFORMANCE OF SERVICES IF CONSULTANT IS NOT DILIGENT IN PERFORMING WORK**

In the event **CONSULTANT** is not diligent in pursuing the designated services as specified in each Task Order, the Director of Public Works or the respective designated representative may, at his option, seven (7) days after written notice to **CONSULTANT**, perform any such required engineering services or retain a different consultant to do the same, and the cost associated with having said work completed by a means other than the **CONSULTANT** will be retained from any sums not yet paid to the **CONSULTANT**.

### **SECTION 7. PROGRESS AND COMPLETION**

#### **7.1 Notice To Proceed**

The Notice to Proceed for each Task Order shall be a letter, or similar instrument, signed by the Director of Public Works or the respective designated representative, and shall be labeled "Notice to Proceed". Such "Notice to Proceed" shall contain a reference to the work authorized by said Notice.

## 7.2 Time of Completion of each Task

**CONSULTANT** agrees to perform the engineering services for the type of projects generally described in Exhibit "A" and described specifically by a Task Order within the time limits set forth in the project schedule required by Section 2 (d) of this Agreement. Any change in the scope of services as outlined in the Task Order will require a revised time table.

**COUNTY** agrees to exercise due diligence in performing its tasks to implement the **CONSULTANT'S** time schedule.

## 7.3 COUNTY'S Review and Approval

Between each phase of work and at critical progress points there shall be a review and approval period by **COUNTY** and other agencies. **COUNTY** shall reject **CONSULTANT'S** submittal if changes and/or comments transmitted to **CONSULTANT** by **COUNTY** during previous review were not addressed by **CONSULTANT** in current submittal.

## SECTION 8. CHANGES IN WORK

The Director of Public Works or the respective designated representative may order major changes in scope or character of work in writing which are mutually acceptable, either decreasing or increasing the amount of **CONSULTANT'S** services. In the event that such changes are ordered, **CONSULTANT** shall be entitled to compensation for all work previously directed by **COUNTY** and performed by **CONSULTANT** prior to receipt of notice of change. Increased compensation for major changes shall be determined in accordance with Section 6 of the Agreement, but in no event shall **COUNTY** be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by **COUNTY**.

In the event that major changes are ordered pursuant to this Section, the schedule for progress and completion in Section 7 of this Agreement and compensation under Section 6 of this Agreement, shall be adjusted by negotiation between **CONSULTANT** and **COUNTY**.

## SECTION 9. RECORDS

The **CONSULTANT** and all subcontractors under its employ, supervision and/or control shall retain all financial and technical records for inspection for a period of not less than three (3) years from completion and approval of each final task order by the **COUNTY** or upon termination of Agreement.

Records of costs pertaining to the Project shall be kept by **CONSULTANT** on a generally recognized accounting basis and shall be available for **COUNTY'S** review at mutually convenient times.

## SECTION 10. INTEREST OF CONSULTANT/CONSULTANT INDEPENDENT OF COUNTY

In accepting this Agreement, **CONSULTANT** covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. **CONSULTANT** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed throughout the term of this Agreement. **CONSULTANT** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **COUNTY**.

In the performance of the engineering services necessary for compliance with this Agreement, **CONSULTANT**, and any of its subconsultants or employees, shall be, and is at all times considered, an Independent Contractor, and is not an agent or employee of **COUNTY**. **CONSULTANT** has, and shall retain, the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his engineering services hereunder to include any and all subconsultants employed for the project described herein. **CONSULTANT** shall be solely responsible for all matters relating to payment of his employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for his own acts and those of his subordinates and employees.

#### **SECTION 11. GENERAL PROVISIONS**

(a) The **CONSULTANT** acknowledges that time is of the essence for all projects defined in approved Task Order(s) and agrees to complete all work within the time frame as stipulated within said Task Order(s) commencing with the receipt of the **COUNTY'S** "Notice to Proceed". Time extensions shall only be approved with prior written approval of the County and failure to complete services according to a mutually agreed upon schedule may be grounds for contract termination.

(b) The **CONSULTANT** upon becoming aware of factors which would result in delays shall be responsible for alerting **COUNTY** to potential delays well in advance in order that possible mitigation measures may be evaluated. **CONSULTANT** shall detail the nature and reasons for potential delays and shall provide the **COUNTY** with possible mitigation measures for consideration.

(c) On all matters pertaining to Task Orders to be performed and the time taken by **CONSULTANT** to perform such services, the decision of the Director of Public Works or the respective designated representative will be final after discussions between **COUNTY** and **CONSULTANT**.

(d) The **CONSULTANT** warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the **CONSULTANT**, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement.

For breach or violation of this warranty, the **COUNTY** shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **SECTION 12. OWNERSHIP OF DOCUMENTS**

All tracings, sketches, plans, specifications, estimates, maps, design calculations, quantity calculations, supporting documents, studies, survey notes, and other documents prepared by **CONSULTANT** or subconsultants under the terms of this Agreement shall be delivered to and become the property of the **COUNTY** without restriction or limitation on their use. However, should **COUNTY** re-use or utilize data or drawings not for their intended use then **COUNTY** shall be solely liable and indemnify **CONSULTANT** against such use. Computer files used by **CONSULTANT** to produce the final set of plans and specifications shall also be delivered in AutoCAD, Softdesk, Access, Excel and Word electronic form on compact disks, 3-1/2" floppy diskettes or other media acceptable to the **COUNTY** at no additional cost and become the property of the **COUNTY**.

## **SECTION 13. TERM OF AGREEMENT**

The Term of this Agreement shall be for two (2) years from the date of execution of the Agreement by the County. The term of the Agreement may be extended, in one (1) year increments. Said approval to extend the Agreement beyond the initiate two year term of the Agreement shall be accomplished by written notification from the Director of Public Works or his designated representative.

## **SECTION 14. TERMINATION OF AGREEMENT**

The **COUNTY** reserves the right to terminate this Agreement, at no fault of either party to this Agreement, with thirty (30) days written notice by the Director of Public Works or the respective designated representative to the **CONSULTANT**.

The **COUNTY** is under no obligation to employ the **CONSULTANT** for all phases of work as outlined in this Agreement, but reserves the right to employ other consulting firms for the various phases of work. If, in the **COUNTY**'s opinion, the **CONSULTANT** is without cause not diligent in pursuing any of the engineering services provided for in Section 3 of this Agreement, the Director of Public Works or the respective designated representative may, at his option, with no more than seven (7) days after written notice to **CONSULTANT**, terminate this Agreement for engineering services or retain a different consultant to do the same, and retain the appropriate portion of any sums not yet paid to the **CONSULTANT**. Lack of diligence may include but not be limited to: lack of compliance with agreed upon schedule, submittal of partially completed required documents, and lack of quality control.

**CONSULTANT** agrees that failure to carry out the requirements as set forth in this section shall constitute a breach of contract and after appropriate notification, may result in

termination of the Agreement by the COUNTY as the COUNTY deems appropriate.

## **SECTION 15. NON-ASSIGNMENT OF AGREEMENT**

This Agreement shall not be assigned, sublet or transferred by CONSULTANT, in whole, or in part without the written consent of the COUNTY. If the CONSULTANT elects to subcontract the soil investigation, photogrammetric mapping, traffic engineering, surveying, seismic studies or any other portions of the contract, CONSULTANT shall notify the Director of Public Works or the respective designated representative in writing with whom CONSULTANT proposes to subcontract. The approval for use of subcontractors for any aspect of the work not initially identified as part of the design team shall only be after written approval from the COUNTY, as stipulated in Section 11 of this Agreement.

## **SECTION 16. HOLD HARMLESS AND INSURANCE CLAUSES**

### **16.1 HOLD HARMLESS**

The CONSULTANT shall indemnify and save harmless the COUNTY, its officers, agents, employees and servants from all claims, suits or actions brought for, or on account of, injuries to or death of any person including CONSULTANT, or damage to property of any kind whatsoever and to whomsoever, but only to the extent that they result from the negligent performance of any work required by this Agreement of CONSULTANT, provided that this shall not apply to injuries or damage for which COUNTY has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of the CONSULTANT to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

### **16.2 INSURANCE**

The CONSULTANT shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the Director of Public Works. The CONSULTANT shall furnish the COUNTY with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual liability provision extending the CONSULTANT'S coverage to include the contractual liability assumed by the CONSULTANT pursuant to this Agreement, subject to the terms, conditions, limitations and exclusions of the policy. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given by CONSULTANT, in writing, to the COUNTY of any cancellation or modification of the policy(ies) concerning the insurance requirements set forth in this Agreement.

#### **16.2.1 Workers' Compensation and Employer's Liability Insurance**

The CONSULTANT shall have in effect during the entire life of this Agreement Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In

signing this Agreement, the **CONSULTANT** makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

#### 16.2.2 Liability Insurance

The **CONSULTANT** shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by this Agreement from any and all operations under this Agreement, whether such operations be by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, and in the aggregate, and shall be not less than the amount specified below:

Such insurance shall include:

- (a) Commercial General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

The **CONSULTANT** shall provide proof of continuing professional liability insurance to **COUNTY** in the amount of \$1,000,000 for a period of two (2) years after acceptance by **COUNTY** of the work constructed in conformance with **CONSULTANT'S** design and any subsequent revisions/modifications made by **CONSULTANT**. **COUNTY** and its officers, agents, employees and servants shall be included as additional insured on any such policies of insurance, except professional liability, which shall also contain a provision that the insurance afforded thereby to the **COUNTY**, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, but only to the extent of the **CONSULTANT'S** negligence, and that if the **COUNTY** or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provisions of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the **COUNTY**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

## **SECTION 17. DISPUTES AND REMEDIES**

Any dispute between the parties to this Agreement regarding the interpretation or application of any provision contained herein shall be resolved in a court of competent jurisdiction pursuant to the laws of the State of California. Each party shall bear its own costs and attorneys fees associated with the resolution of the dispute.

## **SECTION 18. JOBSITE SAFETY AND ENVIRONMENTAL PROTECTION**

Neither the professional activities of the **CONSULTANT** nor the presence of the **CONSULTANT** or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety or environmental protection precautions required by any regulatory agencies. The **CONSULTANT** and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The **CONSULTANT** agrees that the General Contractor is solely responsible for jobsite safety, and environmental protection, and warrants that this intent shall be made evident in the **COUNTY'S** Agreement with the General Contractor. The **CONSULTANT** also agrees that the **COUNTY**, the **CONSULTANT** and any other **COUNTY CONSULTANTS** that may be providing services at the construction site shall be indemnified and shall be made additional insured's under the General Contractor=s general liability insurance policy.

## **SECTION 19. Employee Benefits**

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. **Exhibit "C" and "D" Attached.**



## **SECTION 20. Non-Discrimination**

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

**Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:**

- i) termination of this Agreement;
- ii) Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) Liquidated damages of \$2,500 per violation;
- iv) Imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) Examine Contractor's employment records with respect to compliance with this paragraph;
- ii) Set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

**SECTION 21. NOTIFICATIONS**

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

**COUNTY:**

Neil R. Cullen, Director of Public Works  
(or his designated representative)  
COUNTY of San Mateo, DPW  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

**CONSULTANT:**

Ronald Calhoun, P.E., Principal  
Wilsey Ham  
383A Vintage Park Drive  
Foster City, CA 94404

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands on the day and year first above written.

"COUNTY"

SAN MATEO COUNTY

BY

\_\_\_\_\_  
Michael D. Nevin, President  
Board of Supervisors, County of San Mateo

ATTEST:

\_\_\_\_\_  
Clerk of said Board

"CONSULTANT"

BY:

*TD Calhoun* 11/15/01  
*its chairman*

**Exhibit "A"****Engineering Services**

The Consultant shall provide services to include, but not be limited to, preliminary studies, topographic surveys, geotechnical studies, project concept development, design, construction management for a variety of public works type projects. The type public works projects that the consultant may be requested to provide services for could include the following:

1. Street Improvements
2. Land Movement Repair
3. Hydraulic Studies
4. Storm Sewer Improvements
5. Sanitary Sewer Improvements
6. Traffic Control and Circulation
7. Landfill Remediation and Repair
8. Stream/Creek Remediation

The above represent general categories of possible type projects. The Consultant would be assigned a specific project with a specified fee by means of a Project Task Order as described elsewhere in this Agreement.

**Exhibit "B"**

**Hourly Rate Schedule**

SEE ATTACHED

*Notes:*

1. Allowance for Travel Expenses shall be at the rate of \$0.345 per mile.
2. The hourly rates indicated above shall remain in effect for the term of the Agreement, unless adjustments are approved in writing, in advance of accruing cost at new rates, by the County.

# WILSEY HAM CHARGE RATE FEE SCHEDULE

## I. CHARGE RATE FEE SCHEDULE

The compensation of Wilsey Ham for work done will be on the basis of an hourly charge rate, plus incurred expenses and will be the sum of all the items set forth below:

### A. PERSONNEL SERVICES

Supervising Engineer	\$155	Per Hr	Designer/Technician	\$ 82	Per Hr
Senior Engineer	122	Per Hr	Cad Operator/Drafter	75	Per Hr
Associate Engineer	112	Per Hr	Word Processor	60	Per Hr
Engineer	100	Per Hr	Office Support	60	Per Hr
Assistant Engineer	83	Per Hr	2 Person Survey Crew	182	Per Hr
Junior Engineer	75	Per Hr	3 Person Survey Crew	255	Per Hr
Senior Designer/Technician	95	Per Hr			
			Contract Personnel	2x	Invoice
			Outside Survey Specialist	\$ 112	Per Hr

Client approved overtime will be billed at one-half the employee's hourly rate of pay for hours in excess of eight in one day, in addition to the hourly Charge Rate shown above.

Effective through December 31, 2002 and subject to revision annually thereafter. Client approval will be requested for new rates to be effective January 1, 2003

### B. REIMBURSABLE EXPENSES

#### 1. TRAVEL & TRANSPORTATION EXPENSES

- a) Reimbursement for actual travel and subsistence expenses paid to or on behalf of employees on business connected with the project, plus a handling charge of 15%.
- b) Thirty two and one-half cents (.32 1/2¢) per mile for use of company passenger vehicles or nine dollars (\$9.00) per hour for use of vehicles carrying field survey equipment or used for field inspection and supervision

#### 2. MISCELLANEOUS EXPENSES

- a) The invoice cost of materials, supplies, reproduction work, and other services, including communication expenses, procured by Wilsey Ham from outside sources, plus a handling charge of 10%. All out-of-pocket expenses not included in Items 1 and 2 will be included in this category.

### C. OUTSIDE SERVICES

- a) Invoice cost of services and expenses charged to Wilsey Ham by outside consultants, professional, or technical firms engaged in connection with the order, plus 10% handling charge.

**Exhibit "C"****Equal Benefits Ordinance****CHAPTER 2.93**ORDINANCE NO 04026

An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code  
to Provide for Non-Discrimination by County Contractors in the  
Provision of Employee Benefits

**WHEREAS**, employee benefits routinely comprise a significant proportion  
of total employee compensation; and

**WHEREAS**, discrimination in the provision of employee benefits between  
employees with domestic partners and employees with spouses results in unequal pay for equal  
work; and

**WHEREAS**, County of San Mateo law prohibits discrimination based on marital status  
and/or sexual orientation; and

**WHEREAS**, it is the County's intent, through the contracting practices outlined herein,  
to equalize the total compensation between similarly situated employees with spouses and  
employees with domestic partners;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO**  
**AS FOLLOWS:**

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new  
Chapter 2. 93 to read as follows:

**Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**

**2.93.010 Definitions.**

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**2.93.020 Discrimination in the provision of benefits prohibited.**

- (a) No Contractor on a County Contract shall discriminate in the provision of



Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;

2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

#### **2.93.030 Application of Chapter.**

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the

Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

#### **2.93.040 Powers and duties of the County Manager.**

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
  - 1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
  - 2. Contractual remedies, including, but not limited to termination of contract.
  - 3. Liquidated damages in the amount of \$2,500.
- (d) Examine Contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

#### **2.93.050 Date of Application.**

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.



# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
11/16/01

## PRODUCER

Dealey, Renton & Associates  
P. O. Box 12675  
Oakland, CA 94604-2675  
510 465-3090 Edi Barrow

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

## INSURERS AFFORDING COVERAGE

## INSURED

Wilsey Ham  
383A Vintage Park Drive  
Foster City, CA 94404

INSURER A: Hartford Casualty Insurance Co.

INSURER B: American Motorists Ins. Co.

INSURER C: Security Ins. Co. of Hartford

INSURER D:

INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	57SBAKC4110	12/31/00	12/31/01	EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$500,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	57UENHT8284	12/31/00	12/31/01	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A	EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$	57SBAKC4110	12/31/00	12/31/01	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$ \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	7CW23546011	09/01/01	09/01/02	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	OTHER Professional Liability	AEE00300455	12/31/00	12/31/01	\$1,000,000 / claim & annual aggregate

## DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Omnibus Engineering Services. The County of San Mateo, its officers, agents, employees and servants are additional insured to general & auto liability. Insurance is primary.

## CERTIFICATE HOLDER

## ADDITIONAL INSURED/INSURER LETTER:

## CANCELLATION

San Mateo County DPW  
Attn: Neil R. Cullen  
Directors of Public Works  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ~~RESEND BY MAIL~~ 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. ~~NO FURTHER NOTICE OR~~  
~~IN THE EVENT OF CANCELLATION OF ANY POLICY, THE INSURER'S OBLIGATION TO~~  
~~RENEW OR RENEW~~  
AUTHORIZED REPRESENTATIVE

*Edith C. Barrow*

*OK Maly*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES or  
CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

San Mateo County DPW  
Attn: Neil R. Cullen  
Directors of Public Works  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

Omnibus Engineering Services. The County of San Mateo, its officers, agents, employees and servants are additional insured to general & auto liability. Insurance is primary.

PRIMARY INSURANCE:

IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS INSURANCE.

**AGREEMENT FOR OMNIBUS ENGINEERING SERVICES  
IN SAN MATEO COUNTY**

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**THIS AGREEMENT**, entered into this \_\_\_\_ day of \_\_\_\_\_ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, CA 94063-1665, hereinafter called '**COUNTY**' and Harris & Associates, hereinafter called '**CONSULTANT**'.

**WITNESSETH:**

**WHEREAS**, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of **COUNTY**; and

**WHEREAS**, the **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete, hereinafter referred to as the "Project"; and

**WHEREAS**, **CONSULTANT** is a competent Professional Engineer qualified and with employees duly licensed to perform such engineering services in connection with said project, and the parties hereto desire to enter into an Agreement for said engineering services.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO** as follows:

**SECTION 1. SCOPE OF PROJECT**

The **COUNTY** occasionally needs consultant services to deliver public works projects due to heavy workload for in-house staff to complete. The type of projects may include preliminary study, design and/or construction management of street improvement, slides repairs, drainage system improvement, sanitary sewers improvement, or traffic control and channelization improvements.

The Scope of the Project to be executed by **CONSULTANT** shall be as described in Scope of Services for the Omnibus Engineering Services attached hereto as Exhibit "A", and by reference made as part of this Agreement.

**SECTION 2. GENERAL REQUIREMENTS**

(a) When a project is identified that needs consultant services, the **COUNTY** will issue a preliminary task order for each specific project to the **CONSULTANT**. The **CONSULTANT** will then propose detailed scope of services, a 'not-to-exceed' fee, and a timetable for completing the proposed project. Once an agreement is reached for a specific



project, the **COUNTY** will issue a Final Task Order, herein after called 'Task Order' for the **CONSULTANT** to proceed.

(b) **CONSULTANT'S** work shall begin within ten (10) days after receiving **COUNTY'S** Notice to Proceed.

(c) The **CONSULTANT** will be responsible to the **COUNTY** in matters pertaining to the contractual obligations, approvals, and interpretations required for this project. The Director of Public Works or the respective designated representative will be the representative of the **COUNTY** for all purposes under this Agreement.

(d) The **CONSULTANT** as part of the services to be performed, will keep the **COUNTY** apprised at all times of the progress of the work.

(e) The **CONSULTANT** shall meet with **COUNTY** to develop a time schedule to be prepared and kept up to date by **CONSULTANT** of the anticipated program to complete services described in Exhibit "A" and any approved final task orders.

(f) Computer software used by the **CONSULTANT** to produce the documents required in this Agreement shall be compatible with the **COUNTY'S** current versions of software. The software currently used by the **COUNTY** is AutoCAD version 14, Softdesk version 8, Microsoft Office 2000 for Windows with Access, Excel and Word. During all phases of this Agreement and at the time of final submittal of report, the **CONSULTANT** shall furnish the **COUNTY** with all electronic media acceptable to the **COUNTY**, in addition to the number of copies specified in the Agreement.

(g) Any Computer Aided Design and Drafting (CADD) documents, drawings, and dated files provided by **CONSULTANT** in accordance with the services covered by this Agreement or as a courtesy to **COUNTY** do not constitute the delivery of **CONSULTANT'S** professional work product. The electronic media may be damaged during transfer or altered so paper prints shall control where there are any differences between the paper prints and the electronic media. **CONSULTANT** makes no warranties either express or implied, of merchantability, applicability, compatibility with **COUNTY'S** computer equipment, or software, or the fitness for any particular purpose for the electronic media of that the electronic media contains no defects or are virus free. Modifications or use by **COUNTY** of any documents or electronics media prepared by **CONSULTANT** for any purpose or project other than the project subject to this Agreement shall be at **COUNTY'S** sole risk. **COUNTY** agrees to indemnify and hold the **CONSULTANT** harmless from any claims, damages, liabilities, or costs, including attorney's fees and costs of defense arising from the **COUNTY'S** reuse or modification of any documents of electronic media prepared by **CONSULTANT** without the prior written consent on **CONSULTANT**.

### **SECTION 3. ENGINEERING SERVICES BY CONSULTANT**

Exhibit "A", attached hereto, includes a list of the type of projects for which the Consultant may be requested to provide services. The Task Order(s) will be issued by the County to the Consultant and will define a specific project with a scope of work to accomplish said project.

In consideration of payment by COUNTY to CONSULTANT, as hereinafter provided, CONSULTANT agrees to perform all Engineering Services described in the approved Task Order(s) necessary to complete the project.

### **SECTION 4. GENERAL OBLIGATIONS OF CONSULTANT**

#### **4.1 CONSULTANT PERSONNEL**

The CONSULTANT shall provide the COUNTY with resumes of key staff members to be assigned to said project including the project manager and project engineer in advance of commencing any engineering services, as outlined under Exhibit "A" of this Agreement and any approved final task orders. Once the COUNTY approves the key staff to be assigned to the project, any substitutions or additions shall be subject to written approval by the COUNTY. The COUNTY reserves the right to reject any personnel the CONSULTANT proposes for use on the project. Approval of the use of staff from work sites other than the work sites of the engineering staff initially identified to work on said project shall be subject to written approval by the COUNTY.

CONSULTANT represents that it is qualified to furnish the services described under this Agreement. CONSULTANT further declares that one or more members or employees of its firm and that of its subconsultants, if so required by the State, if any, are licensed by the State of California to perform their services and that these services will be performed by them or under their direct supervision. CONSULTANT shall furnish to COUNTY for approval, upon execution of this Agreement, a list of all firms or corporations to be employed as subconsultants.

Nothing in this Agreement abrogates the professional responsibilities of the CONSULTANT and/or subconsultants with respect to design defects, errors, omissions, or malpractice.

#### **4.2 NON-DISCRIMINATION**

CONSULTANT, with regard to the work performed under this Agreement, shall not discriminate on the grounds of race, religion, color, national origin, sex, sexual orientation, or age in the selection of CONSULTANT'S employees or in the retention of sub-contractors, including procurement of materials and leases of equipment. The CONSULTANT and sub-contractors shall provide the COUNTY with a copy of their affirmative action program, for review and approval, which should attempt to achieve an ethnic composition of their work forces which approximates the ethnic composition of San Mateo County.

### **CORRECTIONS AND/OR REVISIONS**

**CONSULTANT** shall make and provide to **COUNTY** all necessary corrections and/or revisions to the project analysis when it is determined by the Director of Public Works or his designated representative, that such changes are necessary for the project and are due to oversights, omissions or errors of **CONSULTANT**.

Payment to **CONSULTANT** for making any such necessary corrections and/or revisions, addendum, or contract change orders which are determined by the Director of Public Works or the respective designated representative to be due to the oversights, omissions, or errors of the **CONSULTANT** shall be considered as being included in the Basic Services fee to be paid to **CONSULTANT** for Basic Services described in Exhibit "A" of this Agreement and any approved final task orders. It is expressly understood that no additional payment shall be considered or made for these services.

### **SECTION 5. GENERAL OBLIGATIONS OF COUNTY**

(a) **COUNTY** shall be responsible for providing any available data required by the **CONSULTANT** as stipulated in any approved final task orders.

(b) **COUNTY** shall examine documents submitted by **CONSULTANT** and shall render comments and direction pertaining thereto promptly (up to two weeks or otherwise upon written agreement by **COUNTY** and **CONSULTANT**), as stipulated in approved final Task Orders.

### **SECTION 6. PAYMENT BY COUNTY**

In consideration of the furnishing of the engineering services by **CONSULTANT**, as herein provided, **COUNTY** agrees to pay **CONSULTANT** for engineering services described in Exhibit "A" of this Agreement and any approved Task Order(s) upon receipt of properly completed monthly invoices for work performed as described in said Task Order(s). The PROJECT TOTAL "Not-to-Exceed" amount will be stipulated in each Task Order. Any services deemed necessary by the **COUNTY** for completion of each Task Order shall be authorized in writing prior to proceeding with the work. Billing rates for services provided under this Agreement shall be as set forth on Exhibit "B" attached hereto and by reference to this Agreement.

The "Not to Exceed" amount for this agreement shall be \$200,000 unless otherwise authorized to be increased by the County Board of Supervisors. Specific projects assigned to the Consultant shall have a Project Total 'Not To Exceed' which shall be stated in the Task Order. The sum of individual Task Order fees for multiple projects shall not exceed the Agreement 'Not To Exceed' without prior approval of the County Board of Supervisors.

Payments for services performed are due and payable upon completion and approval of each Task Order by the Director of Public Works or the respective designated representative should the project be accomplished within a single billing period.

#### 6.1 METHOD OF PAYMENT

Payments shall be made by COUNTY only for services rendered and upon submission of invoice after approval of each Task Order should the project be accomplished within a single billing period. Partial progress payment for items accomplished within each Task Order shall be made by COUNTY upon submission of invoice and approval of the completion of items identified in the Task Order.

#### 6.2 PAYMENT UPON SUSPENSION, ABANDONMENT OF PROJECT, OR TERMINATION OF AGREEMENT

If any Task Order is suspended for more than thirty (30) calendar days, or abandoned in all or in part, CONSULTANT shall be paid for its services performed prior to receipt of thirty (30) days written notice from COUNTY of such suspension or abandonment, together with reimbursable expenses then due. In the event that the COUNTY abandons any Final Task Order the COUNTY may specifically authorize additional work necessary to properly close out the project.

If Agreement or any Task Order is suspended or terminated due to fault of CONSULTANT, COUNTY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services that were satisfactorily performed.

#### 6.3 PERFORMANCE OF SERVICES IF CONSULTANT IS NOT DILIGENT IN PERFORMING WORK

In the event CONSULTANT is not diligent in pursuing the designated services as specified in each Task Order, the Director of Public Works or the respective designated representative may, at his option, seven (7) days after written notice to CONSULTANT, perform any such required engineering services or retain a different consultant to do the same, and the CONSULTANT shall be retained from any sums not yet paid to the CONSULTANT.

### SECTION 7. PROGRESS AND COMPLETION

#### 7.1 Notice To Proceed

The Notice to Proceed for each Task Order shall be a letter, or similar instrument by the Director of Public Works or the respective designated representative, and "Notice to Proceed". Such "Notice to Proceed" shall contain a reference to the work by said Notice.

## **7.2 Time of Completion of each Task**

**CONSULTANT** agrees to perform the engineering services for the type of projects generally described in Exhibit "A" and described specifically by a Task Order within the time limits set forth in the project schedule required by Section 2 (d) of this Agreement. Any change in the scope of services as outlined in the Task Order will require a revised time table.

**COUNTY** agrees to exercise due diligence in performing its tasks to implement the **CONSULTANT'S** time schedule.

## **7.3 COUNTY'S Review and Approval**

Between each phase of work and at critical progress points there shall be a review and approval period by **COUNTY** and other agencies. **COUNTY** shall reject **CONSULTANT'S** submittal if changes and/or comments transmitted to **CONSULTANT** by **COUNTY** during previous review were not addressed by **CONSULTANT** in current submittal.

## **SECTION 8. CHANGES IN WORK**

The Director of Public Works or the respective designated representative may order major changes in scope or character of work in writing which are mutually acceptable, either decreasing or increasing the amount of **CONSULTANT'S** services. In the event that such changes are ordered, **CONSULTANT** shall be entitled to compensation for all work previously directed by **COUNTY** and performed by **CONSULTANT** prior to receipt of notice of change. Increased compensation for major changes shall be determined in accordance with Section 6 of the Agreement, but in no event shall **COUNTY** be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by **COUNTY**.

In the event that major changes are ordered pursuant to this Section, the schedule for progress and completion in Section 7 of this Agreement and compensation under Section 6 of this Agreement, shall be adjusted by negotiation between **CONSULTANT** and **COUNTY**.

## **SECTION 9. RECORDS**

The **CONSULTANT** and all subcontractors under its employ, supervision and/or control shall retain all financial and technical records for inspection for a period of not less than three (3) years from completion and approval of each final task order by the **COUNTY** or upon termination of Agreement.

Records of costs pertaining to the Project shall be kept by **CONSULTANT** on a generally recognized accounting basis and shall be available for **COUNTY'S** review at mutually convenient times.

## **SECTION 10. INTEREST OF CONSULTANT/CONSULTANT INDEPENDENT OF COUNTY**

In accepting this Agreement, **CONSULTANT** covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. **CONSULTANT** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed throughout the term of this Agreement. **CONSULTANT** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **COUNTY**.

In the performance of the engineering services necessary for compliance with this Agreement, **CONSULTANT**, and any of its subconsultants or employees, shall be, and is at all times considered, an Independent Contractor, and is not an agent or employee of **COUNTY**. **CONSULTANT** has, and shall retain, the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his engineering services hereunder to include any and all subconsultants employed for the project described herein. **CONSULTANT** shall be solely responsible for all matters relating to payment of his employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for his own acts and those of his subordinates and employees.

## **SECTION 11. GENERAL PROVISIONS**

(a) The **CONSULTANT** acknowledges that time is of the essence for all projects defined in approved Task Order(s) and agrees to complete all work within the time frame as stipulated within said Task Order(s) commencing with the receipt of the **COUNTY'S** "Notice to Proceed". Time extensions shall only be approved with prior written approval of the County and failure to complete services according to a mutually agreed upon schedule may be grounds for contract termination.

(b) The **CONSULTANT** upon becoming aware of factors which would result in delays shall be responsible for alerting **COUNTY** to potential delays well in advance in order that possible mitigation measures may be evaluated. **CONSULTANT** shall detail the nature and reasons for potential delays and shall provide the **COUNTY** with possible mitigation measures for consideration.

(c) On all matters pertaining to Task Orders to be performed and the time taken by **CONSULTANT** to perform such services, the decision of the Director of Public Works or the respective designated representative will be final after discussions between **COUNTY** and **CONSULTANT**.

(d) The **CONSULTANT** warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the **CONSULTANT**, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person,

other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the **COUNTY** shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **SECTION 12. OWNERSHIP OF DOCUMENTS**

All tracings, sketches, plans, specifications, estimates, maps, design calculations, quantity calculations, supporting documents, studies, survey notes, and other documents prepared by **CONSULTANT** or subconsultants under the terms of this Agreement shall be delivered to and become the property of the **COUNTY** without restriction or limitation on their use. However, should **COUNTY** re-use or utilize data or drawings not for their intended use then **COUNTY** shall be solely liable and indemnify **CONSULTANT** against such use. Computer files used by **CONSULTANT** to produce the final set of plans and specifications shall also be delivered in AutoCAD, Softdesk, Access, Excel and Word electronic form on compact disks, 3-1/2" floppy diskettes or other media acceptable to the **COUNTY** at no additional cost and become the property of the **COUNTY**.

## **SECTION 13. TERM OF AGREEMENT**

The Term of this Agreement shall be for two ( 2 ) years from the date of execution of the Agreement by the County. The term of the Agreement may be extended, in one (1) year increments. Said approval to extend the Agreement beyond the initiate two year term of the Agreement shall be accomplished by written notification from the Director of Public Works or his designated representative.

## **SECTION 14. TERMINATION OF AGREEMENT**

The **COUNTY** reserves the right to terminate this Agreement, at no fault of either party to this Agreement, with thirty (30) days written notice by the Director of Public Works or the respective designated representative to the **CONSULTANT**.

The **COUNTY** is under no obligation to employ the **CONSULTANT** for all phases of work as outlined in this Agreement, but reserves the right to employ other consulting firms for the various phases of work. If, in the **COUNTY**'s opinion, the **CONSULTANT** is without cause not diligent in pursuing any of the engineering services provided for in Section 3 of this Agreement, the Director of Public Works or the respective designated representative may, at his option, with no more than seven (7) days after written notice to **CONSULTANT**, terminate this Agreement for engineering services or retain a different consultant to do the same, and retain the appropriate portion of any sums not yet paid to the **CONSULTANT**. Lack of diligence may include but not be limited to: lack of compliance with agreed upon schedule, submittal of partially completed required documents, and lack of quality control.

**CONSULTANT** agrees that failure to carry out the requirements as set forth in this section shall constitute a breach of contract and after appropriate notification, may result in termination of the Agreement by the **COUNTY** as the **COUNTY** deems appropriate.

#### **SECTION 15. NON-ASSIGNMENT OF AGREEMENT**

This Agreement shall not be assigned, sublet or transferred by **CONSULTANT**, in whole, or in part without the written consent of the **COUNTY**. If the **CONSULTANT** elects to subcontract the soil investigation, photogrammetric mapping, traffic engineering, surveying, seismic studies or any other portions of the contract, **CONSULTANT** shall notify the Director of Public Works or the respective designated representative in writing with whom **CONSULTANT** proposes to subcontract. The approval for use of subcontractors for any aspect of the work not initially identified as part of the design team shall only be after written approval from the **COUNTY**, as stipulated in Section 11 of this Agreement.

#### **SECTION 16. HOLD HARMLESS AND INSURANCE CLAUSES**

##### **16.1 HOLD HARMLESS**

The **CONSULTANT** shall indemnify and save harmless the **COUNTY**, its officers, agents, employees and servants from all claims, suits or actions brought for, or on account of, injuries to or death of any person including **CONSULTANT**, or damage to property of any kind whatsoever and to whomsoever, but only to the extent that they result from the negligent performance of any work required by this Agreement of **CONSULTANT**, provided that this shall not apply to injuries or damage for which **COUNTY** has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of the **CONSULTANT** to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

##### **16.2 INSURANCE**

The **CONSULTANT** shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the Director of Public Works. The **CONSULTANT** shall furnish the **COUNTY** with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual liability provision extending the **CONSULTANT'S** coverage to include the contractual liability assumed by the **CONSULTANT** pursuant to this Agreement, subject to the terms, conditions, limitations and exclusions of the policy. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given by **CONSULTANT**, in writing, to the **COUNTY** of any cancellation or modification of the policy(ies) concerning the insurance requirements set forth in this Agreement.



### 16.2.1 Workers' Compensation and Employer's Liability Insurance

The **CONSULTANT** shall have in effect during the entire life of this Agreement Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In signing this Agreement, the **CONSULTANT** makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

### 16.2.2 Liability Insurance

The **CONSULTANT** shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by this Agreement from any and all operations under this Agreement, whether such operations be by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, and in the aggregate, and shall be not less than the amount specified below:

Such insurance shall include:

- (a) Commercial General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

The **CONSULTANT** shall provide proof of continuing professional liability insurance to **COUNTY** in the amount of \$1,000,000 for a period of two (2) years after acceptance by **COUNTY** of the work constructed in conformance with **CONSULTANT'S** design and any subsequent revisions/modifications made by **CONSULTANT**. **COUNTY** and its officers, agents, employees and servants shall be included as additional insured on any such policies of insurance, except professional liability, which shall also contain a provision that the insurance afforded thereby to the **COUNTY**, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, but only to the extent of the **CONSULTANT'S** negligence, and that if the **COUNTY** or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provisions of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the **COUNTY**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

## **SECTION 17. DISPUTES AND REMEDIES**

Any dispute between the parties to this Agreement regarding the interpretation or application of any provision contained herein shall be resolved in a court of competent jurisdiction pursuant to the laws of the State of California. Each party shall bear its own costs and attorneys fees associated with the resolution of the dispute.

## **SECTION 18. JOBSITE SAFETY AND ENVIRONMENTAL PROTECTION**

Neither the professional activities of the **CONSULTANT** nor the presence of the **CONSULTANT** or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety or environmental protection precautions required by any regulatory agencies. The **CONSULTANT** and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The **CONSULTANT** agrees that the General Contractor is solely responsible for jobsite safety, and environmental protection, and warrants that this intent shall be made evident in the **COUNTY'S** Agreement with the General Contractor. The **CONSULTANT** also agrees that the **COUNTY**, the **CONSULTANT** and any other **COUNTY CONSULTANTS** that may be providing services at the construction site shall be indemnified and shall be made additional insured's under the General Contractor's general liability insurance policy.

## **SECTION 19. Employee Benefits**

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. **Exhibit "C" and "D"**  
**Attached.**

## **SECTION 20. Non-Discrimination**

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

**Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:**

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

**SECTION 21. NOTIFICATIONS**

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

**COUNTY:**

Neil R. Cullen, Director of Public Works  
(or his designated representative)  
COUNTY of San Mateo, DPW  
555 County Center, 5th Floor  
Redwood City, CA 94063-1665

**CONSULTANT:**

Robert Guletz, P.E., Vice President  
Harris & Associates  
120 Mason Circle  
Concord, CA 94520

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,  
have affixed their hands on the day and year first above written.

**"COUNTY"**

**SAN MATEO COUNTY**

BY

\_\_\_\_\_  
Michael D. Nevin, President  
Board of Supervisors, County of San Mateo

ATTEST:

\_\_\_\_\_  
Clerk of said Board

**"CONSULTANT"**

BY:

\_\_\_\_\_  
Robert S. Gault

**Exhibit "A"****Engineering Services**

The Consultant shall provide services to include, but not be limited to, preliminary studies, topographic surveys, geotechnical studies, project concept development, design, construction management for a variety of public works type projects. The type public works projects that the consultant may be requested to provide services for could include the following:

1. Street Improvements
2. Land Movement Repair
3. Hydraulic Studies
4. Storm Sewer Improvements
5. Sanitary Sewer Improvements
6. Traffic Control and Circulation
7. Landfill Remediation and Repair
8. Stream/Creek Remediation

The above represent general categories of possible type projects. The Consultant would be assigned a specific project with a specified fee by means of a Project Task Order as described elsewhere in this Agreement.

**Exhibit "B"**

**Hourly Rate Schedule**

**SEE ATTACHED**

***Notes:***

1. Allowance for Travel Expenses shall be at the rate of \$0.345 per mile.
2. The hourly rates indicated above shall remain in effect for the term of the Agreement, unless adjustments are approved in writing, in advance of accruing cost at new rates, by the County.

Exhibit "B"  
San Mateo County 2001-03 Omnibus Engineering Services  
Hourly Rate Schedule

**Harris & Associates**

**RANGE OF HOURLY RATES:  
DESIGN AND PUBLIC WORKS SERVICE GROUPS**

**Effective January 1 - December 31, 2001**

**ENGINEERING DESIGN AND  
PUBLIC WORKS SERVICES GROUPS**

**HOURLY RATE**

Project Directors	\$170-240
Project Managers	120-180
Project Engineers	80-150
Technical Support	65-95
Administration	50-80

**\*Notes and conditions:**

1. These individuals include professionals and support personnel who might work on Harris projects. Support personnel include technicians and administrative staff.
2. Rates are subject to adjustment due to promotions during the effective period of this schedule. A new rate schedule will become effective January 1, 2002.
3. Unless otherwise indicated in the agreement, hourly rates include most direct costs such as vehicle usage and mileage, equipment usage (including computer and telephone), and printing and copying (except large quantities such as construction documents for bidding purposes).
4. Billing rates for independent contractors and hourly employees are determined on a case-by-case basis.
5. Subconsultant mark-up is 15%.



**Exhibit "C"**

**Equal Benefits Ordinance**

**CHAPTER 2.93**

**ORDINANCE NO 04026**

**An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code  
to Provide for Non-Discrimination by County Contractors in the  
Provision of Employee Benefits**

**WHEREAS**, employee benefits routinely comprise a significant proportion  
of total employee compensation; and

**WHEREAS**, discrimination in the provision of employee benefits between  
employees with domestic partners and employees with spouses results in unequal pay for equal  
work; and

**WHEREAS**, County of San Mateo law prohibits discrimination based on marital status  
and/or sexual orientation; and

**WHEREAS**, it is the County's intent, through the contracting practices outlined herein,  
to equalize the total compensation between similarly situated employees with spouses and  
employees with domestic partners;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO  
AS FOLLOWS:**

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new  
Chapter 2. 93 to read as follows:

**Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**

**2.93.010 Definitions.**

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**2.93.020 Discrimination in the provision of benefits prohibited.**

- (a) No Contractor on a County Contract shall discriminate in the provision of

Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;

2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

#### **2.93.030 Application of Chapter.**

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the

Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

#### **2.93.040 Powers and duties of the County Manager.**

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
  - 1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
  - 2. Contractual remedies, including, but not limited to termination of contract.
  - 3. Liquidated damages in the amount of \$2,500.
- (d) Examine Contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

### **2.93.050 Date of Application.**

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

**Exhibit "D"**

**COUNTY OF SAN MATEO**

**Equal Benefits Compliance Declaration Form  
(To Be Submitted with Proposal)**

**I Vendor Identification**

Name of Contractor:

Harris & Associates

Contact Person:

Bob Guletz or Marie Shockley (HR)

Address:

120 Mason Circle

Concord CA 94520

Phone Number:

925-827-4900

Fax Number:

925-827-4982

**II Employees**

Does the Contractor have any employees? ☒ Yes ☐ No

Does the Contractor provide benefits to spouses of employees? ☒ Yes ☐ No

\*If the answer to one or both of the above is no, please skip to Section IV.\*

**III Equal Benefits Compliance (Check One)**



Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.



Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.



No, the Contractor does not comply.



The Contractor is under a collective bargaining agreement, which began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date).

**IV Declaration**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 13th day of Nov., 2001 at CONCORD, CALIF.

(City)

(State)

Marie Shockley

Signature

MARIE SHOCKLEY

Name (Please Print)

V.P. Manager

Title

94-2385238

Contractor Tax Identification Number

F:\USERS\BRUCEK\WORD\CONSULT\OMNIBUS\ENGAGRE1



## ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
8/21/01

PRODUCER (510) 547-3203

## Diversified Risk Insurance Brokers

ense #0529776  
0 Christie Avenue  
Emeryville CA 94608

INSURED

Harris and Associates Inc.  
Attn: Angie Giles  
120 Mason Circle  
Concord CA 94520-1238

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.**

### INSURERS AFFORDING COVERAGE

INSURER A: Valley Forge

INSURER B: American Guarantee &amp; Liability

INSURER C: Alaska National Insurance Company

INSURER D:

INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> "X" "C" "U" <input checked="" type="checkbox"/> Severability of Interest GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC	2049938703	8/1/01	8/1/02	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	BUA2049938717	8/1/01	8/1/02	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AUTO ONLY: AGG \$
B	EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	AUC930072900	8/1/01	8/1/02	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$ \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	01HWS40007	8/1/01	8/1/02	<input checked="" type="checkbox"/> WC STATI- TORY LIMITS <input type="checkbox"/> OTH- ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATION&VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

In the event of cancellation for non-payment of premium, a 10 day notice will apply.

RE: Omnibus Engineering Services in San Mateo County

**CERTIFICATE HOLDER**

**ADDITIONAL INSURED: INSURER LETTER:**

**CANCELLATION**

County of San Mateo  
Nail Cullen  
555 County Center, 5th Floor  
Redwood City CA 94063-1665

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ~~REMIT BY MAIL~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BY REGISTERED MAIL~~ BY REGISTERED MAIL. ~~NO CANCELLATION OF POLICIES WILL BE EFFECTIVE UNTIL THE INSURANCE COMPANY HAS BEEN ADVISED BY THE POLICYHOLDER.~~

**AUTHORIZED REPRESENTATIVE**

POLICY #: 2049938703  
INSURED: Harris and Associates Inc.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES or  
CONTRACTORS (Form B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

County of San Mateo, its officers, agents, employees and servants  
Attn: Neil Cullen  
555 County Center 5<sup>th</sup> floor  
Redwood City, Ca. 94063

Re: Omnibus Engineering Services in San Mateo County

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

Subject to all other terms and provisions of the policy, such insurance as provided by this endorsement shall be deemed primary, but only with respect to work performed by or for the named insured in connection with the above described contract. Any other insurance maintained by the Additional Insured(s) shall be excess and non-contributory.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## DESIGNATED INSURED

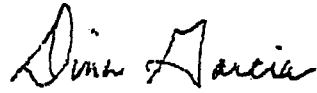
This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective:	Countersigned By:
Named Insured: <b>Harris and Associates Inc.</b>	 (Authorized Representative)

### SCHEDULE

Name of Person(s) or Organization(s): <b>County of San Mateo, its officers, agents, employees and servants</b> <b>Attn: Neil Cullen</b> <b>555 County Center 5<sup>th</sup> floor</b> <b>Redwood City, Ca. 94063</b>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**Re: Omnibus Engineering Services in San Mateo County**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in Section II of the Coverage Form.

Subject to all other terms and provisions of the policy, such insurance as provided by this endorsement shall be deemed primary, but only with respect to work performed by or for the named insured in connection with the above described contract. Any other insurance maintained by the Additional Insured(s) shall be excess and non-contributory.

<b>ACORD CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YY) 8/22/01
<b>PRODUCER</b> (510) 547-3203 <b>Diversified Risk Insurance Brokers</b> Phone #0529776 10 Christie Avenue Emeryville CA 94608	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURERS AFFORDING COVERAGE</b>		
<b>INSURED</b>  Harris and Associates Inc. Attn: Angie Giles 120 Mason Circle Concord CA 94520-1238	INSURER A: Continental Casualty Co. INSURER B: INSURER C: INSURER D: INSURER E:	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/OP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	<b>OTHER</b> Professional Liability	AEA113822501	8/1/01	8/1/02	Per Claim \$2,000,000
A	Professional Liability	AEA113822501	8/1/01	8/1/02	Aggregate \$2,000,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENTS/SPECIAL PROVISIONS

See attached page.

<b>CERTIFICATE HOLDER</b>	<b>ADDITIONAL INSURED; INSURER LETTER:</b>	<b>CANCELLATION</b>
County of San Mateo Neil Cullen 555 County Center, 5th Floor Redwood City CA 94063-		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL <del>SEND BY MAIL</del> MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, <del>NOTIFY THE CERTIFICATE HOLDER BY MAIL</del> <del>NOTIFY THE CERTIFICATE HOLDER BY MAIL</del> <del>NOTIFY THE CERTIFICATE HOLDER BY MAIL</del> AUTHORIZED REPRESENTATIVE <i>Dina Garcia</i>

## DESCRIPTION OF OPERATIONS - 01/02 - Prof Liab (S-Z)

orris and Associates Inc.,  
...ctn: Angie Giles  
120 Mason Circle  
Concord CA 94520-1238

County of San Mateo  
Nail Cullen  
555 County Center, 5th Floor  
Redwood City CA 94063-

In the event of cancellation for non-payment of premium, a 10 day notice will apply.

All operations of the Named Insured including but not limited to any referenced project. The Aggregate limit is the total limit of insurance available for all claims presented under the policy. A \$100,000 deductible applies to each and every claim submitted under the policy.

RE: Omnibus Engineering Services in San Mateo County