

NAPA COUNTY AGREEMENT NO. 240328B
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of this 26 day of March, 2024, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and MILLER PACIFIC ENGINEERING GROUP, a California corporation whose business address is 135 Camino Dorado, Suite 3, Napa, California, 94558, hereinafter referred to as "CONTRACTOR";

RECITALS

WHEREAS, COUNTY wishes to obtain specialized services, as authorized by Government Code section 31000, in order to provide geotechnical engineering, materials testing, and construction inspection support services for the RDS 22-12 Berryessa Estates Paving Project; and

WHEREAS, CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein; and

NOW, THEREFORE, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the terms and conditions set forth herein:

TERMS

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire one year after completion of the Scope of Services, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination), or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of CONTRACTOR to COUNTY shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes) and 21 (Access to Records/Retention).

2. **Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A1", attached hereto, in accordance with the Request for Proposals and CONTRACTOR's proposal, incorporated by reference herein.

3. **Compensation.**

(a) **Rates.** In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates set forth in Exhibit "A1", attached hereto and incorporated by reference herein.

(b) **Expenses.** Travel and other expenses will be reimbursed by COUNTY upon submission of an invoice in accordance with Paragraph 4 at the rates and/or in accordance with the provisions set forth in Exhibit "A1".

(c) **Maximum Amount.** Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of ONE HUNDRED FORTY THOUSAND DOLLARS (\$140,000.00); provided, however, that such amount shall not be construed as a

guaranteed sum, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

(d) Annual Appropriation of Funds. CONTRACTOR acknowledges that the term of this Agreement may extend over multiple County fiscal years, and that compensation under this Agreement is contingent on the Board of Supervisors appropriating funding for this Agreement for those fiscal years. This Agreement may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. COUNTY is not obligated to pay CONTRACTOR, nor is CONTRACTOR obligated to provide further services, if sufficient funds have not been appropriated and authorized by the Board of Supervisors.

4. Method of Payment.

(a) Professional Services. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked, a detailed description of the tasks completed during the billing period, the names of person(s) performing the services and the position(s) held by such person(s), and the approved hourly or task rate.

(b) Expenses. If the Agreement provides for expense reimbursement, requests for reimbursement shall describe the nature and cost of the expense, the date incurred. With the exception of per diem reimbursements, receipts must be attached.

(c) Fixed Price. If the Agreement provides for a fixed price, if CONTRACTOR presents interim invoices, CONTRACTOR must state the percentage of work completed, which must be verified by COUNTY, i.e., 35% design, 95% design, draft report, et cetera, at which time CONTRACTOR shall be paid the equivalent percentage of the fixed price.

(d) CONTRACTOR shall submit invoices not more often than monthly to the Engineer who, after review and approval as to form and content, shall submit the invoice to the Napa County Auditor no later than fifteen (15) calendar days following receipt. A sample invoice showing the level of detail required is attached as Exhibit "B".

(e) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR is or becomes a corporation during the term of this Agreement, proof that such status is currently recognized by and complies with the laws of both the state of incorporation or organization and the State of California, if different, shall be provided to the Engineer upon request in a form satisfactory to the Napa County Auditor. Such proof shall include, but need not be limited to, a copy of any annual or other periodic filings or registrations required by the state of origin or California, the current address for service of process on the corporation or limited liability partnership, and the name of any agent designated for service of process by CONTRACTOR within the State of California.

5. Independent Contractor. CONTRACTOR shall perform this Agreement as an independent contractor. CONTRACTOR and the officers, agents and employees of CONTRACTOR are not, and shall not be deemed, COUNTY employees for any purpose, including workers' compensation and employee benefits. CONTRACTOR shall, at CONTRACTOR's own risk and expense, determine the method and manner by which duties imposed on CONTRACTOR by this Agreement shall be performed; provided, however, that COUNTY may monitor the work performed by

CONTRACTOR. COUNTY shall not deduct or withhold any amounts whatsoever from the compensation paid to CONTRACTOR, including, but not limited to amounts required to be withheld for state and federal taxes, unless required to do so by court order. As between the parties to this Agreement, CONTRACTOR shall be solely responsible for all such payments.

6. **Standard of Care.** CONTRACTOR represents that the professional services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent professional using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. CONTRACTOR shall correct any professional services falling below this standard at its sole cost and expense, if notified by COUNTY within one year after completion of such services. This standard of care is in addition to any other remedies that may be available to COUNTY in law or equity.

7. **Insurance.** CONTRACTOR shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide COUNTY with certification of all such coverages upon request by COUNTY's Risk Manager.

(b) Liability Insurance. CONTRACTOR shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverages, issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of CONTRACTOR or any officer, agent, or employee of CONTRACTOR under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) Professional Liability/Errors and Omissions. Professional liability [or errors and omissions] insurance for all activities of CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim. If the coverage includes an aggregate limit the aggregate limit shall be no less than twice the per occurrence limit.

(3) Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If CONTRACTOR owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in subparagraph (b)(1) above. If CONTRACTOR or CONTRACTOR's employees, officers, or agents

will use personal automobiles in any way in the performance of this Agreement, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person upon request.

(c) Certificates of Coverage. All insurance coverages referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of COUNTY's Risk Manager, demonstrated by other evidence of coverage acceptable to COUNTY's Risk Manager, which shall be filed by CONTRACTOR with the Public Works Department prior to commencement of performance of any of CONTRACTOR's duties.

(1) The certificate(s) or other evidence of coverage shall reference this Agreement by its COUNTY number or title and department; shall be kept current during the term of this Agreement; shall provide that COUNTY shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

(2) Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in 7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR shall file with the evidence of coverage an endorsement waiving subrogation.

(3) The certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(4) Upon request by COUNTY's Risk Manager, CONTRACTOR shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, COUNTY's Risk Manager, which approval shall not be denied unless the COUNTY's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of CONTRACTOR by this Agreement. At the option of and upon request by COUNTY's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects COUNTY, its officers, employees, agents and

volunteers or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR agrees to require all subcontractors and any other entity or person who is involved in providing services under this Agreement to comply with the Workers Compensation and General Liability insurance requirements set forth in this Paragraph 7.

8. Hold Harmless/Defense/Indemnification.

(a) In General. To the full extent permitted by law, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless the COUNTY and its officers, agents, employees, volunteers or representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of, personal injury (including death), including but not limited to COUNTY employees, and the public, or damage to the property of any person or entity, to the extent they arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of CONTRACTOR includes the duty of defense, inclusive of that set forth in California Civil Code Sections 2778 and 2782.8. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, provided that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege. Notwithstanding any other provision of this Agreement, in no event shall the cost to defend charged to CONTRACTOR exceed the CONTRACTOR's proportionate percentage of fault.

(b) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR under this Agreement, including completion of a satisfactory criminal/background check and period rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

9. Termination for Cause. If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within ten (10) days of receipt of written notice from the other party describing the nature of the breach, the non-defaulting party may, in addition to any other remedies it may have, terminate this Agreement by giving five (5) days prior written notice to the defaulting party in the manner set forth in Paragraph 13 (Notices). The Napa County Purchasing Agent or designee pursuant to Napa County Code section 2.36.050 is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for cause.

10. Other Termination. This Agreement may be terminated by COUNTY for any reason and at any time by giving prior written notice of such termination to CONTRACTOR specifying the effective date thereof at least thirty (30) days prior to the effective date; provided, however, that no such termination may be effected by COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination. COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for the convenience of COUNTY.

11. Disposition of, Title to and Payment for Work Upon Expiration or Termination.

(a) Upon expiration of this Agreement or termination for cause under Paragraph 9 or termination for convenience of a party under Paragraph 10:

(1) To the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(2) All finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR may retain a copy of such work for its personal records only, except as otherwise provided under Paragraph 15 (Confidentiality) of this Agreement. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof. Notwithstanding the foregoing and to the extent services under this Agreement involve the development of previously patented inventions or copyrighted software, then upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(b) CONTRACTOR shall be entitled to receive compensation for any satisfactory work completed prior to expiration or receipt of the notice of termination or commenced prior to receipt of the notice of termination and completed satisfactorily prior to the effective date of the termination; except that CONTRACTOR shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR whether or not

the Agreement expired or otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY from CONTRACTOR is determined.

12. **No Waiver.** The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

13. **Notices.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

COUNTY

Steven E. Lederer
Director of Public Works
1195 Third Street, Suite 110
Napa, CA 94559

CONTRACTOR

Mike Morisolli
Miller Pacific Engineering Group
135 Camino Dorado, Suite 3
Napa, CA 94558

14. **Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. CONTRACTOR also agrees that it shall not engage in any activities, or permit its officers, agents and employees to do so, during the performance of any of the services required under this Agreement, which would interfere with compliance or induce violation of these policies by COUNTY employees or contractors.

(a) Napa County "Waste Source Reduction and Recycled Product Content Procurement Policy" which is found in the Napa County Policy Manual Part I, Section 8D.

(b) Napa County "Discrimination, Harassment and Retaliation Prevention Policy," which is found in the Napa County Policy Manual Part I, Section 37K.

(c) Napa County "Drug and Alcohol Policy," which is found in the Napa County Policy Manual Part I, Section 37O.

(d) "Napa County Information Technology Use and Security Policy" which is found in the Napa County Policy Manual Part I, Section 31A. All employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County "Workplace Violence Policy," which is found in the Napa County Policy Manual Part I, Section 37U.

15. Confidentiality.

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of COUNTY, expressed through its Engineering Supervisor. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR.

(2) CONTRACTOR shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information, including, but not limited to, PHI and PII. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

(3) CONTRACTOR agrees to notify COUNTY immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of.

(4) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of COUNTY's Protected Information, or its unauthorized access to or disclosure of COUNTY's Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

16. No Assignments or Subcontracts.

(a) In General. A consideration of this Agreement is the personal reputation of CONTRACTOR; therefore, CONTRACTOR shall not assign any interest in this Agreement or subcontract any of the services CONTRACTOR is to perform hereunder without the prior written consent of COUNTY, which shall not be unreasonably withheld. The inability of the assignee to provide personnel equivalent in experience, expertise, and numbers to those provided by CONTRACTOR, or to perform any of the remaining services required under this Agreement within the same time frame required of CONTRACTOR shall be deemed to be reasonable grounds for COUNTY to withhold its consent to assignment. For purposes of this subparagraph, the consent of COUNTY may be given by the Engineer.

(b) Consent to Subcontractor. COUNTY hereby consents to CONTRACTOR subcontracting with Pavement Engineering, Inc. to perform inspection/construction management services and material testing of SAMI-R work.

(c) Effect of Change in Status. If CONTRACTOR changes its status during the term of this Agreement from or to that of a corporation, limited liability partnership, limited liability company, general partnership, or sole proprietorship, such change in organizational status shall be viewed as an attempted assignment of this Agreement by CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

17. Amendment/Modification. Except as specifically provided herein, this Agreement may be modified or amended only with the prior written consent of both parties. Failure of CONTRACTOR to secure such authorization in writing in advance of performing any extra or changed work shall constitute a waiver of any and all rights to adjustment in the contract price or contract time and no compensation shall be paid for such extra work.

18. Interpretation; Venue.

(a) Interpretation. The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.

(b) Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate either party to submit to mediation or arbitration any dispute arising under this Agreement.

19. Compliance with Laws. CONTRACTOR shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. Such laws shall include, but not be limited to, the following, except where prohibited by law:

(a) Non-Discrimination. During the performance of this Agreement, CONTRACTOR and its subcontractors shall not deny the benefits thereof to any person on the basis of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), or political affiliation or belief, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), use of family care leave, or political affiliation or belief. CONTRACTOR shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, CONTRACTOR

shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof as if set forth in full, and CONTRACTOR and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

(b) Documentation of Right to Work. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

(c) Inclusion in Subcontracts. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph 19 in all such subcontracts as obligations of the subcontractor.

(d) Prevailing Wages. The scope of services includes “public works” as defined in California Labor Code section 1720, such as inspection and land surveying work. CONTRACTOR shall comply with all State prevailing wage requirements, including but not limited to, those set forth in Exhibit “C”.

(e) Notwithstanding anything to the contrary in this Agreement, pursuant to 29 CFR 97.36(i)(8) and (9), CONTRACTOR is hereby notified of, and shall comply with the following requirements and regulations imposed by the Federal Highway Administration (FHWA) with respect to any discovery or invention which arises or is developed pursuant to this Agreement, and pertaining to any copyrights or rights in data created or otherwise developed when engaging in activities of CONTRACTOR under this Agreement: See Attachment B “FHWA Requirements.

20. Taxes. CONTRACTOR agrees to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR’s failure to pay or withhold, when due, all such taxes and obligations. In the event that COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

21. Access to Records/Retention. COUNTY, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall have access to any books, documents, papers and records of CONTRACTOR which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, CONTRACTOR shall maintain all required records for at least seven (7) years after COUNTY makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

22. Authority to Contract. CONTRACTOR and COUNTY each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement.

23. Conflict of Interest.

(a) Covenant of No Undisclosed Conflict. The parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 87100, et seq., relating to conflict of interest of public officers and employees. CONTRACTOR hereby covenants that it presently has no interest not disclosed to COUNTY and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as COUNTY may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR to file with the Elections Division of the Napa County Assessor-Clerk Recorder "assuming office", "annual", and "leaving office" Statements of Economic Interest as a "consultant", as defined in section 18701(a)(2) of Title 2 of the California Code of Regulations, unless it has been determined in writing that CONTRACTOR, although holding a "designated" position as a consultant, has been hired to perform a range of duties so limited in scope as to not be required to fully comply with such disclosure obligation.

CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY's Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

24. Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create any rights in third parties and the parties do not intend to create such rights.

25. Attorney's Fees. In the event that either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

26. **Severability.** If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

27. **Entirety of Contract.** This Agreement, including any documents expressly incorporated by reference whether or not attached hereto, constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings and negotiations, whether written or oral, among the parties with respect to the subject matter hereof.

28. **Agreement Execution.** All Parties consent and agree that any electronic signature, as defined by Civil Code § 1633.2(h), affixed thereon shall have the full force and effect as a wet or manual signature. The Parties further agree that this Agreement may be executed in counterparts, and all such counterparts shall together constitute one and the same Agreement.

29. Special Terms and Conditions.

CONTRACTOR shall adhere to the special terms and conditions set forth in Attachment "B" and Attachment "C", attached hereto and incorporated by reference herein.

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date first above written.

MILLER PACIFIC ENGINEERING GROUP

By: 
Mike Morisoli, Vice President

By: 
Laura Hansen, Chief Financial Officer

“CONTRACTOR”

NAPA COUNTY, a political subdivision of
the State of California

By: _____
JOELLE GALLAGHER, Chair
Board of Supervisors

“COUNTY”

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Ryan FitzGerald (e-sign)</u> Deputy County Counsel</p> <p>Date: <u>March 8, 2024</u></p> <p>PL No. 111523</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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Exhibit "A"

CONTRACTOR shall provide COUNTY with the following services:

I. DESCRIPTION OF SERVICES

This professional services agreement will allow for testing, inspection, as well as geotechnical engineering and related services. These services are necessary to support the production of Plans and Specification and inspection of construction work for conformance to requirements.

CONTRACTOR shall provide the services set forth in its proposal dated March 5, 2024, attached hereto and incorporated by reference as Attachment A1, which include, but are not limited to the following:

- Geotechnical Exploration
- Concrete and asphalt concrete coring and testing
- Inspection of drilled holes
- Compaction testing for soil, pavement, and aggregate base rock
- Geotechnical recommendations for slide and pavement repairs
- Traffic Control
- Construction management limited to projects that require special geotechnical/pavement inspection

CONTRACTOR has provided the estimate for such work and payment for services rendered under this Agreement will be made at the rates per the fee schedule provided in Exhibit "A1". Work beyond what is authorized in this Agreement will not be reimbursed unless approved by COUNTY.

II. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550

As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of COUNTY pursuant to this Agreement shall contain the numbers and dollar amounts of the Agreement and all subcontracts under the Agreement relating to the preparation of the document or written report. The Agreement and subcontract dollar amounts shall be contained in a separate section of the document or written report. If multiple documents or written reports are the subject of the Agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.



EXHIBIT A1

March 5, 2024
File: 1114.492 rev2 const pro.doc

County of Napa
1195 Third Street, Room 101
Napa, California 95449
Attn: Ms. Sydney Barclay, PE

Re: Proposal for Consultation and Materials Testing
Berryessa Estates Project – RDS 22-12
Napa County, California

Introduction and Project Description

As requested, this letter proposes our materials testing during roadway rehabilitation work in the Berryessa Estates area of northern Napa County. The planned work includes digouts, installation of a SAMI-R on the old pavement surface and 1.5” or 2” HMA overlay depending on the street. Ancillary work including AC dikes, striping, signage and other items will also occur. As discussed, Miller Pacific will provide material testing during the asphalt paving portion of the work and we will retain Pavement Engineering to perform inspection/construction management services along with material testing of the SAMI-R work.

This letter includes our proposed scope and budget request for materials testing during the work:

Pavement Engineering Inspection and Testing

We will retain Pavement Engineering Incorporated (PEI) to perform inspections and construction management services, including materials testing when the SAMI-R layer is placed. PEI’s proposal is attached and we will work with the County to use their time on-site efficiently and we will apprise the County of budget status as the work progresses.

Construction Observations and Testing

During placement of asphalt concrete, we will perform intermittent or full-time site visits (as appropriate) to observe and test the work and to sample materials for subsequent laboratory testing. We will perform density tests on new asphalt as it is being compacted and laboratory testing that will allow us to form an opinion on whether the contractor’s operations and material quality meet the minimum project specifications. For laboratory asphalt testing, we will perform “mix tests” (S-value, Oil Content, Air Voids, Density and gradation) on one day of digout material and we will sample overlays on a daily basis. We have also budgeted for two Hamburg Wheel Track tests over the duration of the overlay work.

Upon completion of project work and laboratory testing, we will prepare a letter report with a summary of our test results along with our opinion on if project work generally conforms with Caltrans requirements and project specifications.

Budget Estimate

We will provide our services on a time-and-expense basis in accordance with the terms and conditions of our 2023 Master Agreement with Napa County. For our Construction Observations and Testing, we have prepared the attached Cost Estimating Worksheet and

135 Camino Dorado, Suite 3	■	Napa, California 94558	■	T (707) 265-7936	F (707) 265-7982
504 Redwood Blvd., Suite 220	■	Novato, California 94947	■	T (415) 382-3444	F (415) 382-3450

estimate our fees could be up to \$35,000 for up to 8 days of paving (approximately 11,000 ton between digouts and overlay work). We note our fees will be dependent on the contractor scheduling, material quality and other factors. We will work closely with the County and Contractor to efficiently use our time on-site and we will update you on our budget status as the work progresses.

In addition to our budget for field and laboratory AC testing, Pavement Engineering's budget estimate of \$85,260 (inspection and project management) and laboratory testing of SAMI-R materials of \$4,890 will be marked up 15% per our contract terms for a total PEI cost of \$103,672.50.

Please call me if you have questions about our scope of services and issue a task order as our confirming authorization. We look forward to working on this project with you!

Very truly yours,
MILLER PACIFIC ENGINEERING GROUP



Mike Morisoli, P.E.

Attachment: Cost Estimating Worksheet, PEI proposal

MILLER PACIFIC ENGINEERING GROUP
 Field Observation & Testing Budget Estimate Worksheet
 Berryessa Estates Project - RDS 22-12
 Napa County, California

Date: 3/05/24
 Project Number: 1114.492
 By: mpm

FIELD COSTS					
	PER UNIT	PER HOUR	SITE VISIT	HALF DAY	FULL DAY
Staff Engineer/Geologist 2	\$ 155.25				
Staff Engineer/Geologist I	\$ 155.25				3
Senior Technician 3	\$ 134.55				
Senior Technician 2	\$ 134.55				
Staff Technician 2	\$ 124.20				
Staff Technician 1	\$ 124.20				
Prevailing Wage Group 3	\$ 155.25			7	9
O/T \$35 - Weekend/Hol/Night \$45; 4 & 8 hr mins apply	\$ 35.00				4
Field Vehicle/Equipment	\$ 9.00			4	9
Nuclear Density Tests	\$ 8.00			15	30
Miles	\$ 0.68			100	100
		\$ -	\$ -	\$ 1,310.75	\$ 2,392.00

Work Item	Description	Estimated Days	HOURS	SITE VISIT SAMPLING	HALF DAY DIGOUTS	FULL DAY
1.0	Digouts and Asphalt Paving	8				8
2.0						
3.0						
4.0						
5.0						
6.0						
Totals			0	0	0	8
DOLLARS		\$ -	\$ -	\$ -	\$ -	\$ 19,136.00
Total Field Costs:						\$ 19,136.00

LABORATORY TESTING				
Task	Description	Quantity	Unit \$	Amount \$
1.0	Compaction Curve ASTM 1557		\$280	\$ -
2.0	Compaction Curve CalTrans 216		\$350	\$ -
3.0	Asphalt Concrete - S-value, Gradation, M.C., Unit Wt. & % Oil	7	\$850	\$ 5,950.00
4.0	Asphalt Concrete - Hamburg Wheel Track	2	\$1,000	\$ 2,000.00
5.0	Sand Equivalent and Durability		\$600	\$ -
6.0	Gradation		\$390	\$ -
7.0	Torsional Recovery		\$210	\$ -
8.0	Residue Penetration		\$110	\$ -
9.0	Residue by evaporation		\$130	\$ -
10.0	Viscosity, SSF		\$130	\$ -
11.0	Demulsibility		\$180	\$ -
Total Lab Costs:				\$ 7,950.00

ENGINEERING/GEOLOGICAL CONSULT & REPORT				
Personnel	Title	Hours	\$/Hour	Amount \$
SAS	Principal Eng/Geologist 3		\$ 269.10	\$ -
MPM	Principal Eng/Geologist 2	12	\$ 269.10	\$ 3,229.20
DSC / EAD	Principal Eng/Geologist I		\$ 269.10	\$ -
BSP	Associate Engineer 2		\$ 238.05	\$ -
MFJ	Associate Geologist 1		\$ 238.05	\$ -
RCA	Senior Engineer 2		\$ 207.00	\$ -
NGK	Senior Engineer 1		\$ 207.00	\$ -
MMT / ZMS	Project Engineer / Geologist 1		\$ 175.95	\$ -
JTO	Senior Technician 3		\$ 134.55	\$ -
AJM	Senior Technician 2		\$ 134.55	\$ -
EIC / RGB / MNT	Staff Engineer/Geologist 2		\$ 155.25	\$ -
NAR/TWM/BPC/GAA	Staff Technician 2	5	\$ 124.20	\$ 621.00
JMO	Staff Technician I		\$ 124.20	\$ -
KRB / MLT	Project Asst./Word Processor	5	\$ 98.98	\$ 494.90
Total Engineering Costs:				\$ 4,345.10

Subtotal: \$ 31,431.10
 Contingency: 10% \$ 3,143.11
 Total: \$ 34,574.21

Use for Budget: \$ 35,000

Rev: 1/21



MILLER PACIFIC ENGINEERING GROUP
COMPENSATION AND EXPENSE REIMURSEMENT-NON FHWA

Table with 2 columns: Professional and Technical Personnel, Hourly Rate. Rows include Project Assistant/Word Processor, Engineering Technician, Senior Technician, etc.

In-house Laboratory Testing

(Will be charged at the hourly rate above unless otherwise noted in the Agreement and Proposal)

Table with 2 columns: Test Name, Rate. Rows include Modified 4 in. Compaction Curve/Checkpoint, Impact, Sieve Analysis, etc.

Other Inside Charges

Table with 2 columns: Charge Name, Rate. Rows include Mileage, Vehicle (Field), Nuclear Density Gauge, etc.

Outside Services Cost + 15%

Includes exploration equipment, instrumentation, in-situ monitoring, outside/specialized laboratory testing, per diem, shipping, courier/delivery services, outside reproduction, and other services and supplies not normally provided.

*NOTES:

- 1. Field site visits and travel time are normal hourly rates, portal to portal.
2. Overtime - Weekday add \$35, Overtime - Weekend/Holiday/Night add \$45*
3. Rates are for normal Geotechnical Engineering and Geological services. Rates for depositions and testimony are \$520 per hour for Principal; \$460 per hour for Associate; and \$410 per hour for Senior.
4. Billing rates are subject to review and change every fiscal year.

March 5, 2024

MP24-094RRR

Michael P. Morisoli
Miller Pacific Engineering
1360 Redwood Way, Suite B
Petaluma, CA 94954

Subject: Proposal for Full Time Construction Management and Quality Assurance Services for the Berryessa Estates Project in Napa County (RDS 22-12).

Dear Michael:

In accordance with your request, we are providing our proposal for testing and inspection services for the subject project.

Our proposal includes providing construction inspection in conjunction with Miller Pacific for all construction activities including materials testing during the rubberized chip seal interlayer (SAMI-R) and asphalt concrete (AC) during construction. In addition, it is our understanding that all items of work related to construction including striping/signage and traffic control will be handled by PEI.

SCOPE OF WORK

Task 1 – Full Time Construction Inspection Services

PEI will provide an on-site inspector for all constructions activities for the project. This includes striping/signage, SAMI-R placement, asphalt concrete paving, and all other activities. As part of our inspection, PEI will measure quantities and monitor traffic control.

During SAMI-R and AC construction, PEI will provide one inspector who will monitor placement, pull samples, and perform testing as necessary per the project specifications.

Task 2 - Verification and Determination of Compliance and Acceptance

PEI will prepare a final report that summarizes the contractor's compliance with specifications, plans, and applicable adopted standards. The report will outline any areas of non-compliance.

PEI can also provide project management when requested. Project management can include reviewing submittals, technical review and project oversight. We have included hours in our budget for those services. PEI will only provide these services when requested by Miller Pacific.

PEI will be monitoring the contractor's compliance to the plans and specifications throughout the project and will report non-compliant issues as soon as possible, so that Miller Pacific and the County of Napa can notify the contractor that the item will need to be addressed or that a deduction will be in order. All daily activities will be summarized in a daily report that will provide detailed happenings from the days construction activities.

In addition to the final report, PEI is committed to providing steady feedback throughout the project. Having up to date information on the contractor's ability to be in general conformance to the project specifications throughout the project will assist Miller Pacific and the County of Napa in managing and assuring the best possible product. Knowing immediately, in some cases the next day, that density was low, or the supplied material is not meeting the specified criteria, creates a proactive environment to correct the problems as they come up, not after the fact.

Task 3 (OPTIONAL) - Laboratory Testing and Quality Assurance

During Rubberized Chip Seal Interlayer (SAMI-R) construction, PEI will include testing that will include asphalt binder testing, gradation, and cleanness value at a rate of one sample per day. At the start of production, PEI will test LA rattler, percent of crushed particles, flat and elongated particles, and durability index as part of "production startup" testing.

PROPOSAL FEE & FEE SCHEDULE

The not to exceed fee is an estimate, based on our knowledge of similar construction. The contractor's actual schedule may result in a different level of effort and a modified estimate. The estimate is based on an ten-hour day with travel and vehicle usage as separate items; and providing engineering support, construction inspection and materials testing services for the work.

Our work will be invoiced on a time and materials basis. The individual fees associated with each task will serve as guidelines for progress payments. Inspection services will be invoiced as a daily rate.

Overtime will be charged for days longer than eight hours. PEI requires a 72-hour notification of changes in the schedule, or a full eight-hour day will apply. Our inspection fees account for prevailing wages.



Michael P. Morisoli
MP24-094RRR
March 5, 2024
Page 3


This proposal assumes that County of Napa will monitor the contractor pertaining to all labor compliance issues. PEI will monitor and inspect all non-paving work including pavement marking/signage work and any other non-paving items of work.

BASE BID – \$85,260

SAMI-R TESTING ADDITIVE – \$4,890

The enclosed proposal conditions apply. Please feel free to contact me at (530) 224-4535 with any questions.

Very truly yours,
PAVEMENT ENGINEERING INC.


William J. Long, P.E.
Principal Engineer

Enclosures: Proposal Conditions
 Fee Schedule

pc: C File / M File / MP File S/R/P



Miller Pacific
Estimated Fee Breakdown Schedule
Full Time Construction Inspection and Testing
County of Napa - RDS 22-12 Berryessa Estates Project

Task 1 QA Inspection for Asphalt Concrete (AC) Construction			
Position	Units	Rate	Total
Daily Inspection Rate	40	\$1,610 / day	\$64,400
Travel Time	48	\$145 / hour	\$6,960
Equipment / Vehicle Usage	40	\$200 / day	\$8,000
Estimated Task 2 Fees:			\$79,360
Task 2 Project Manager Support (Submittal Review/Meetings)			
Position	Units	Rate	Total
Senior Principal Engineer	5	\$270 / hour	\$1,350
Project Management	15	\$190 / hour	\$2,850
Clerical	20	\$85 / hour	\$1,700
Estimated Task 1 Fees:			\$5,900
Total Estimated Fees:			\$85,260

Overtime Rates	Time and a Half	Double Time
Inspection	180 / hour	220 / hour
Compaction Testing	180 / hour	220 / hour

Task 3 OPTIONAL Lab Testing for Rubberized Chip Seal Interlayer (SAMI-R) Construction			
Rubberized Chip Seal Interlayer (SAMI-R)			
Laboratory Manager	6	\$190 / hour	\$1,140
Gradation	2	\$160 / test	\$320
Cleanness	2	\$225 / test	\$450
Los Angeles Rattler (CT 211)	1	\$240 / test	\$240
Percentage of Crushed Particles (AASHTO T 335)	1	\$180 / test	\$180
Fiat and Elongated Particles (ASTM D4791)	1	\$200 / test	\$200
Durability Index (CT 229)	1	\$460 / test	\$460
Asphalt Binder Testing (AASHTO T 59, T 49, T 51, T44)	2	\$950 / test	\$1,900
Estimated Task 4 Fees:			\$4,890
Total Estimated Fees:			\$4,890



PROPOSAL CONDITIONS

1. Proposal is valid for thirty days from the date of the proposal.
2. All work shall be performed utilizing common methods and practices of the civil engineering profession. Reports and construction documents will be signed by a registered civil engineer.
3. Fees for Lump Sum or Unit Price Proposals will be charged at the quoted price. The quoted prices include all laboratory testing costs. Fees for Engineering and Technical Services on a Time and Materials Basis will be charged at the applicable hourly rates of the current PEI Fee Schedule.
4. The proposal is based upon providing insurance with limits as defined in the referenced RFP.
5. One copy of an Engineering Report or Plans and Specifications will be provided to the Owner of a project. Additional copies are \$35 each.
6. Payment: Invoices will be submitted at the completion of the work for Engineering Reports. Inspection fees will be invoiced on a monthly basis. All invoices are due upon receipt. Interest of 1-1/2% per month (but not exceeding the maximum rate allowable by law) will be payable on any amounts not paid within 30 days, payment thereafter to be applied first to accrued interest and then to the principal unpaid amount. Attorney's fees or other costs incurred in collecting any delinquent amount shall be paid by the client.



Exhibit B

SAMPLE INVOICE

[Company Name]
 [Street Address]
 [City, ST ZIP Code]
 Phone [phone] Fax [fax]
 Taxpayer ID #

**SAMPLE
 INVOICE**

INVOICE # _____
 DATE: _____

TO:
 [Customer Name]
 [Street Address]
 [City, ST ZIP Code]

FOR:
 [Project or service description]
 Contract No.

Date	DESCRIPTION	Employee & Title	HOURS	RATE	AMOUNT
1/1/15	Site visit/investigation 123 Main St, Napa. Conf w/Owner AutoCad, Bldg X, 3 rd Floor	Smith, Engineer	1.5	\$165.00	247.50
1/1/15		Smith, Engineer	1	\$165.00	165.00
1/1/15		Smith, Engineer	4	\$165.00	660.00
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	\$195.00	341.25
1/2/15	AutoCad Bldg X, 3 rd Floor Conf w/Owner re 2 nd Floor	Smith, Engineer	4	\$165.00	660.00
1/2/15		Smith, Engineer	.5	\$165.00	82.50
1/3/15	Mtg w/Jones re 2 nd Floor; conf w/Owner Mtg w/Smith; conf w/Owner re 2 nd Floor	Smith, Engineer	1.5	\$165.00	247.50
1/3/15		Jones, PE	1.5	\$195.00	292.50
TOTAL					

Exhibit C

CALIFORNIA PREVAILING WAGE REQUIREMENTS

Pursuant to California Labor Code sections 1720 and 1771, construction, alteration, demolition, installation, repair and maintenance work performed under this Agreement is subject to State prevailing wage laws. State prevailing wage laws require certain provisions be included in all contracts for public works. The Contractor and any subcontractors shall comply with State prevailing wage laws including but not limited to the requirements listed below.

1. Compliance with Prevailing Wage Requirements. Pursuant to California Labor Code sections 1720 through 1861, the Contractor and all subcontractors shall ensure that all workers who perform work under this Agreement are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including but not limited to inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, including but not limited to all cleanup work at the jobsite.

1.1. Copies of such prevailing rate of per diem wages are on file at the Napa County Public Works Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. The Contractor and all subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

1.2. The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Agreement. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Agreement in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Agreement, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Agreement, such wage rate shall apply to the balance of the Agreement.

2. Penalties for Violations. The Contractor and all subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under California Labor Code sections 1720 through 1861.

3. Payroll Records. The Contractor and all subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. The Contractor shall require all subcontractors to also comply with section 1776. The Contractor and all subcontractors shall furnish records specified in section 1776 on a monthly basis, both to the County and directly to the Labor Commissioner in the manner required by California Labor Code section 1771.4. The Contractor shall ensure its subcontractors prepare and submit payroll records to the County and the DIR as required by this section.

3.1. If the Contractor or a subcontractor is exempt from the DIR registration requirement pursuant to section 9.4 below, then the Contractor or such subcontractor is not required to furnish payroll records directly to the Labor Commissioner but shall retain the records for at least three years after completion of the work, pursuant to California Labor Code section 1771.4(a)(4).

3.2. The County may require the Contractor and its subcontractors to prepare and submit records specified in section 1776 to the County and the Labor Commissioner on a weekly basis, at no additional cost to the County.

4. Apprentices. The Contractor and all subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. The Contractor is responsible for compliance with this section for all apprenticeable occupations pursuant to California Labor Code section 1777.5(n).

5. Working Hours. The Contractor and all subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on contractors and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

6. Required Provisions for Subcontracts. The Contractor shall include, at a minimum, a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

7. Labor Code Section 1861 Certification. In accordance with California Labor Code section 3700, the Contractor is required to secure the payment of compensation of its employees. By signing the Agreement, to which this is an exhibit, the Contractor certifies that:

“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 that code, and I will comply with such provisions before commencing the performance of the work of this Agreement.”

8. Compliance Monitoring and Enforcement. This project is subject to compliance monitoring and enforcement by the DIR. The County must withhold contract payments from the Contractor as directed by the DIR, pursuant to California Labor Code section 1727.

9. Contractor and Subcontractor Registration Requirements. The Contractor and all subcontractors shall not be qualified to bid on, be listed in a bid or proposal, subject to the requirements of California Public Contract Code section 4104, or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by California Business and Professions Code section 7029.1 or California Public Contract Code sections 10164 or 20103.5, provided the Contractor is registered to perform public work pursuant to section 1725.5 at the time the contract is awarded.

9.1. A Contractor's inadvertent error in listing a subcontractor who is not registered pursuant to California Labor Code section 1725.5 in response to a solicitation shall not be grounds for filing a protest or grounds for considering the bid or proposal non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to the proposal due date; (2) within 24 hours after the proposal due date, the subcontractor is registered and has paid the penalty registration fee specified in California Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered subcontractor pursuant to California Public Contract Code section 4107.

9.2. By submitting a bid or proposal to the County, the Contractor is certifying that the Contractor has verified that all subcontractors used on this project are registered with the DIR in compliance with California Labor Code sections 1771.1 and 1725.5. The Contractor shall provide proof of registration for themselves and all listed subcontractors to the County at the time of the bid or proposal due date or upon request.

9.3. The County may ask the Contractor for the most current list of subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this project at any time during performance of this Agreement, and the Contractor shall provide the list within ten (10) working days of the County's request.

9.4. This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work, pursuant to California Labor Code sections 1725.5(f) and 1771.1(n).

10. Stop Order. Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of California Labor Code sections 1725.5 or 1771.1, the Labor Commissioner must issue and serve a stop order prohibiting the use of the unregistered contractor or subcontractor on ALL public works until the unregistered contractor or subcontractor is registered. Failure to observe a stop order is a misdemeanor.