

**MASTER SERVICE AGREEMENT  
SCN103484**

**ADMINISTERING AGENCY:** COUNTY OF PLACER / DEPARTMENT OF PUBLIC WORKS

**DESCRIPTION:** MASTER SERVICE AGREEMENT FOR CONSTRUCTION MANAGEMENT, INSPECTION, MATERIALS TESTING, SURVEYING AND RELATED SERVICES FOR FEDERALLY FUNDED AND NON-FEDERALLY FUNDED PROJECTS IN WESTERN PLACER COUNTY

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THIS AGREEMENT MADE AND ENTERED INTO THIS \_\_\_\_\_ day of \_\_\_\_\_, 2021, BY AND BETWEEN the COUNTY OF PLACER, hereinafter referred to as "COUNTY", and \_\_\_\_\_, located in \_\_\_\_\_, hereinafter referred to as "CONSULTANT".

W I T N E S S E T H

WHEREAS, the COUNTY requires Construction Management, Inspection, Materials Testing, Surveying, and Related Services; and

WHEREAS, CONSULTANT is duly qualified and has the required experience to provide such services and is willing to perform such services; and

WHEREAS, COUNTY desires to retain the services of CONSULTANT to perform required services;

NOW, THEREFORE, COUNTY and CONSULTANT in consideration of the mutual covenants herein set forth agree as follows:

1. **Services** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the services described in task order and RFQ No. 20119, Construction Management, Inspection, Materials Testing, Surveying, and Related Services and Consultant's response to said document. Consultant shall provide said services at the time, place, and in the manner specified in task order.
2. **Amendments to Agreement.** All amendments to either this agreement or any subsequent task orders must be processed as change orders.
3. **Time of Performance.** Time is of the essence. Failure of Consultant to perform any services within the time limits set forth in any subsequent task order shall constitute material breach of this contract.
4. **Payment.** County shall pay Consultant for services rendered pursuant to this Agreement at the time and in the amount set forth in the applicable document based on this Master Services Agreement. The scope of work and specific costs will be expressly identified on the purchase order for each specific project. The payment specified on the document shall be the only payment made to Consultant for services rendered pursuant for the specific engagement. Consultant shall submit all billings for said services to County in the manner specified in RFQ No. 20119.
5. **Records.** CONSULTANT shall maintain at all times complete detailed records with regard to services performed under this agreement in a form acceptable to COUNTY, and COUNTY shall have the right to inspect such records at any reasonable time. Notwithstanding any other terms of this agreement, no payments shall be made to CONSULTANT until COUNTY is satisfied that services of such value have been rendered pursuant to this agreement. All records shall be

retained by CONSULTANT for a period of at least three (3) years after the date of final payment to CONSULTANT.

6. **Employees of Consultant.** All persons performing services for CONSULTANT shall be solely employees of CONSULTANT and not employees of COUNTY. CONSULTANT shall be solely responsible for the salaries and other benefits, including Workers' Compensation, of all such personnel.
7. **Conflict of Interest.** CONSULTANT warrants and covenants that no official or employee of the COUNTY, nor any business entity which an official of the COUNTY has an interest, has been employed or retained to solicit or aid in the procuring of this Agreement, nor that any such person will be employed in the performance of this Agreement without immediate divulgence of such fact to the COUNTY.
8. **Nondiscrimination.** During the performance of this agreement, CONSULTANT shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), or sex. CONSULTANT shall insure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONSULTANT shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this agreement by reference and made a part hereof as if set forth in full.

CONSULTANT shall give written notice of its obligation under this clause to labor organizations with which it has a collective bargaining or agreement.

CONSULTANT shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under this agreement.

9. **Indemnity.**  
The CONSULTANT hereby agrees to protect, defend, indemnify, and hold PLACER COUNTY free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PLACER COUNTY arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of PLACER COUNTY) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of this contract or agreement to the extent that the above arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct (all whether by act, error and/or omission) of the CONSULTANT. CONSULTANT'S obligation shall include the duty to defend PLACER COUNTY as set forth in California Civil Code Sections 2778 and 2782.8. This provision is not intended to create any cause of action in favor of any third party against CONSULTANT or PLACER COUNTY or to enlarge in any way the CONSULTANT'S liability but is intended solely to provide for indemnification of PLACER COUNTY from liability for damages or injuries to third persons or property arising from CONSULTANT'S performance pursuant to this contract or agreement.

As used above, the term PLACER COUNTY means the County of Placer, its officers, agents, employees, and volunteers.

10. **Insurance**. Consultant shall file with County a Certificate of Insurance, with companies acceptable to County, with a Best's Rating of no less than A-:VII showing the following coverage. A Best Rating of A-V is acceptable for Professional Liability (E&O).

**WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:**

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to CONSULTANT'S employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

**Cancellation Notice** - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

**Waiver of Subrogation** - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the CONSULTANT.

**CONSULTANT** shall require all SUBCONTRACTORS to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

**GENERAL LIABILITY INSURANCE:**

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of CONSULTANT, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- (1) Contractual liability insuring the obligations assumed by CONSULTANT in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If CONSULTANT carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- One million dollars (\$1,000,000) each occurrence
- Two million dollars (\$2,000,000) aggregate

D. If CONSULTANT carries a Commercial General Liability (Occurrence) policy:

- (1) The limits of liability shall not be less than:
  - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
  - One million dollars (\$1,000,000) for Products-Completed Operations
  - Two million dollars (\$2,000,000) General Aggregate
- (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

CONSULTANT shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:
  - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
  - One million dollars (\$1,000,000) aggregate for Products Completed Operations
  - Two million dollars (\$2,000,000) General Aggregate
- (2) The insurance coverage provided by CONSULTANT shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of polices be different.

ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided by the Consultant, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
- C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

PROFESSIONAL LIABILITY INSURANCE (ERRORS & OMISSIONS):

Professional Liability Insurance for Errors and Omissions coverage in the amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence and two million dollars (\$2,000,000) aggregate.

If Consultant sub-contracts in support of Consultants work provided for in the agreement, Professional Liability Insurance for Errors shall be provided by the sub contractor in an amount not less than one million dollars (\$1,000,000) in aggregate.

The insurance coverage provided by the consultant shall contain language providing coverage up to one (1) year following completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims made policy.

Additional Requirements:

Premium Payments - The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The CONSULTANT shall be responsible for all deductibles in all of the CONSULTANT's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000. If Consultant has a deductible or self-insured retention greater than \$25,000, Consultant shall provide its financials to Placer County Risk Management for review and approval.

CONSULTANT's Obligations - CONSULTANT's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - CONSULTANT shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the CONSULTANT to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

Certificate Holder –Placer County subscribes to a service that monitors insurance certificates for compliance with the above requirements. The Certificate Holder on insurance certificates and related documents should read as follows:

County of Placer  
c/o EXIGIS LLC

PO Box 4668 ECM #35050  
New York, NY 10168-4668  
Fax: 888-355-3599  
Email: certificates-placer@riskworks.com

Upon initial award of a contract to your firm, Exigis will contact you with further instructions for providing insurance certificates which meet the terms of the contract. Certificates which amend or alter the coverage during the term of the contract, including updated certificates due to policy renewal, should be sent directly to Exigis via fax or email as indicated above.

11. **Non-Assignability.** This agreement, and the rights and duties thereunder, shall not be assigned in whole or in part without the express written consent of COUNTY.
12. **General Compliance with Laws.** The CONSULTANT shall exercise usual and customary care in its efforts to comply with applicable Federal, State and local laws, statutes, rules and regulations that are in effect as of the date of this agreement, or which may later be enacted. CONSULTANT shall comply with all laws regarding payment of prevailing wages, including, without limitation, California Labor Code Section 1720, as such laws may be amended or modified. CONSULTANT agrees to comply with any directives or regulations issued by the California State Department of Industrial Relations or any other regulatory body of competent jurisdiction.
13. **Prevailing Wage Requirements.** The services described herein are for publicly funded projects, considered "public works" as defined by California Labor Code Section 1720 et seq. Any firm awarded a contract as the result of this RFQ shall be responsible for compliance with all applicable prevailing wage laws, as well as any and all applicable state or federal wage laws, for services performed under any resulting contract.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
  - B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.
  - C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.
14. **Governing Law.** This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings regarding this agreement shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California.
  15. **Use of Sub-Consultants.** CONSULTANT shall not use the services of any SUBCONSULTANT without the written approval by COUNTY prior to SUBCONSULTANT commencing any work on this project.

- A. Nothing contained in this contract, any task order, or otherwise, shall create any contractual relation between THE COUNTY and any sub-consultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to THE COUNTY for the acts and omissions of its sub-consultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its sub consultant(s) is an independent obligation from THE COUNTY obligation to make payments to the CONSULTANT.
  - B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract or task order shall be subcontracted without written authorization by THE COUNTY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
  - C. CONSULTANT shall pay its sub-consultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by THE COUNTY.
  - D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to sub-consultants.
  - E. Any substitution of sub-consultant(s) must be approved in writing by THE COUNTY's Contract Administrator prior to the start of work by the sub-consultant(s).
16. **Suspension or Abandonment With or Without Cause.** COUNTY may suspend or abandon, by written notice, all or a portion of the work under this Agreement for any reason. CONSULTANT may request that all or a portion of the work under this Agreement be suspended or abandoned for any reason by notifying COUNTY in writing. Suspension or abandonment shall only be valid upon receipt of written approval of the request by COUNTY.
17. **Cancellation.** THE COUNTY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- A. THE COUNTY may terminate this agreement with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, THE COUNTY may proceed with the work in any manner deemed proper by THE COUNTY. If THE COUNTY terminates this contract with CONSULTANT, THE COUNTY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to THE COUNTY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.
  - B. The maximum amount for which the COUNTY shall be liable if this agreement is terminated is the amount set forth in applicable documents(s) based on this Master Services Agreement.
18. **Covenant Against Contingent Fees.** The CONSULTANT warrants that he 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 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.

- 19. **Disputes.** All claims, counter-claims, disputes, and other matters in question between COUNTY and CONSULTANT that cannot be settled by agreement between the parties will be presented to the Board of Supervisors of COUNTY for consideration. In the event the Board of Supervisors cannot resolve the matter or matters to the satisfaction of the parties, either party may undertake whatever legal actions against the other, as it deems necessary.
  
- 20. **Remedies.** In the event of breach of any condition or provision hereof, the COUNTY shall have the right, by prior written notice to the CONSULTANT, to terminate the employment of the CONSULTANT hereunder and cancel this Agreement and have the work thus canceled otherwise performed, without prejudice to any other rights or remedies of the COUNTY. The COUNTY shall have the benefit of such work as may have been completed up to the time of such termination or cancellation, and with respect to any part which shall have been delivered to and accepted by the COUNTY there shall be an equitable adjustment of compensation, applicable to specific task order.
  
- 21. **Notices.** All notices, and approvals or demands of any kind required or desired to be given by the COUNTY and CONSULTANT shall be in writing and shall be deemed served or given upon delivery if personally delivered or faxed, or, if mailed, forty-eight (48) hours after depositing the notice or demand in the United States mail, certified or registered, postage prepaid to the addresses shown below. COUNTY and CONSULTANT may from time to time by written notice to the other designate another place for receipt of future notices.

COUNTY OF PLACER:

Placer County Procurement Services  
Attn: Purchasing Manager  
2964 Richardson Drive  
Auburn, CA 95603

Phone: 530-886-2122  
Email: Procurement@placer.ca.gov

CONSULTANT:

Name of firm:  
Attn:

Phone:  
Email:



IN WITNESS WHEREOF, the parties have hereunto set their hands the year and date first above written.

**“CONSULTANT” \***

**“COUNTY”  
STATE OF CALIFORNIA  
COUNTY OF PLACER**

By: \_\_\_\_\_  
Officer Signature # 1  
(Signature Notarized)

By: \_\_\_\_\_  
Brett M. Wood, Purchasing Manager  
Procurement Services Division

By: \_\_\_\_\_  
Print Name and Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
Signature # 2  
(Signature Notarized)

By: \_\_\_\_\_  
County Counsel, Placer County

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name and Title

Date: \_\_\_\_\_

**ATTACHMENTS:**

- Exhibit A - Task Order
- Exhibit B - Fee Schedule
- Exhibit C - A&E Contract Language
- Exhibit D - DBE Forms

\*If Contractor is a corporation, contract must be signed by the following two corporate officers, one from each category: (1) Chairman of the Board, President or any Vice President, and (2), Corporate Secretary, any Assistant Corporate Secretary, Chief Financial Officer or any Treasurer or Assistant Treasurer, unless an authenticated copy of a resolution of the corporation which delegates to a single officer the authority to bind the corporation is attached to this contract.

If Contractor is another type of business entity, such as a partnership or limited liability company, contract must be signed by officer(s) possessing legal authority to bind the entity. An authenticated copy of a resolution, partnership agreement, operating agreement or other legal evidence of signature authority must be attached to this contract."

**EXHIBIT A**  
**TASK ORDER**

Task Specific Scope of Services, Related Payment and other applicable forms

This page is left intentionally blank and will be negotiated on a case-by-case basis, based on this MSA and Consultant's proposal.

**EXHIBIT B**  
**FEE SCHEDULE**

This page is left intentionally blank, and will be completed upon final award of this MSA, based on Consultant's proposed Fee Schedule.

## EXHIBIT C

### A&E CONTRACT LANGUAGE

The contractual language provided below applies to federally funded projects. Any firm awarded a contract for Local Assistance Federal-Aid Projects only shall be responsible for additional terms and conditions found in Exhibit 10-R of the "CALTRANS Local Assistance Procedures Manual" as applicable, which include but are not limited to the following, in addition to the terms and conditions stated in the Master Services Agreement.

1. **Performance Period.** This contract shall go into effect on (DATE), contingent upon approval by PLACER COUNTY, and CONSULTANT shall commence work after notification to proceed by PLACER COUNTY PROCUREMENT SERVICES DIVISION. The contract shall end on (DATE), unless extended by contract amendment.

2. **Cost Principles and Administrative Requirements.** CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allow ability of individual items. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.

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

4. **Prohibition of Expending Local Agency State or Federal Funds for Lobbying.** *Applies if task order exceed \$150,000.*

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

- (1) No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension,

continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

**MASTER SERVICE AGREEMENT  
SCN103484**

**ADMINISTERING AGENCY:** COUNTY OF PLACER / DEPARTMENT OF PUBLIC WORKS

**DESCRIPTION:** MASTER SERVICE AGREEMENT FOR CONSTRUCTION MANAGEMENT, INSPECTION, MATERIALS TESTING, SURVEYING AND RELATED SERVICES FOR NON-FEDERALLY FUNDED PROJECTS IN EASTERN PLACER COUNTY

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W I T N E S S E T H

WHEREAS, the COUNTY requires Construction Management, Inspection, Materials Testing, Surveying, and Related Services; and

WHEREAS, CONSULTANT is duly qualified and has the required experience to provide such services and is willing to perform such services; and

WHEREAS, COUNTY desires to retain the services of CONSULTANT to perform required services;

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6. **Employees of Consultant.** All persons performing services for CONSULTANT shall be solely employees of CONSULTANT and not employees of COUNTY. CONSULTANT shall be solely responsible for the salaries and other benefits, including Workers' Compensation, of all such personnel.
7. **Conflict of Interest.** CONSULTANT warrants and covenants that no official or employee of the COUNTY, nor any business entity which an official of the COUNTY has an interest, has been employed or retained to solicit or aid in the procuring of this Agreement, nor that any such person will be employed in the performance of this Agreement without immediate divulgence of such fact to the COUNTY.
8. **Nondiscrimination.** During the performance of this agreement, CONSULTANT shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), or sex. CONSULTANT shall insure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONSULTANT shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this agreement by reference and made a part hereof as if set forth in full.

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CONSULTANT shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under this agreement.

9. **Indemnity.**  
The CONSULTANT hereby agrees to protect, defend, indemnify, and hold PLACER COUNTY free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PLACER COUNTY arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of PLACER COUNTY) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of this contract or agreement to the extent that the above arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct (all whether by act, error and/or omission) of the CONSULTANT. CONSULTANT'S obligation shall include the duty to defend PLACER COUNTY as set forth in California Civil Code Sections 2778 and 2782.8. This provision is not intended to create any cause of action in favor of any third party against CONSULTANT or PLACER COUNTY or to enlarge in any way the CONSULTANT'S liability but is intended solely to provide for indemnification of PLACER COUNTY from liability for damages or injuries to third persons or property arising from CONSULTANT'S performance pursuant to this contract or agreement.

As used above, the term PLACER COUNTY means the County of Placer, its officers, agents, employees, and volunteers.

10. **Insurance**. Consultant shall file with County a Certificate of Insurance, with companies acceptable to County, with a Best's Rating of no less than A-:VII showing the following coverage. A Best Rating of A-V is acceptable for Professional Liability (E&O).

**WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:**

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to CONSULTANT'S employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

**Cancellation Notice** - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

**Waiver of Subrogation** - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the CONSULTANT.

**CONSULTANT** shall require all SUBCONTRACTORS to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

**GENERAL LIABILITY INSURANCE:**

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of CONSULTANT, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- (1) Contractual liability insuring the obligations assumed by CONSULTANT in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If CONSULTANT carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- One million dollars (\$1,000,000) each occurrence
- Two million dollars (\$2,000,000) aggregate

D. If CONSULTANT carries a Commercial General Liability (Occurrence) policy:



- (1) The limits of liability shall not be less than:
  - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
  - One million dollars (\$1,000,000) for Products-Completed Operations
  - Two million dollars (\$2,000,000) General Aggregate
- (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

CONSULTANT shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:
  - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
  - One million dollars (\$1,000,000) aggregate for Products Completed Operations
  - Two million dollars (\$2,000,000) General Aggregate
- (2) The insurance coverage provided by CONSULTANT shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of polices be different.

ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided by the Consultant, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
- C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

PROFESSIONAL LIABILITY INSURANCE (ERRORS & OMISSIONS):

Professional Liability Insurance for Errors and Omissions coverage in the amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence and two million dollars (\$2,000,000) aggregate.

If Consultant sub-contracts in support of Consultants work provided for in the agreement, Professional Liability Insurance for Errors shall be provided by the sub contractor in an amount not less than one million dollars (\$1,000,000) in aggregate.

The insurance coverage provided by the consultant shall contain language providing coverage up to one (1) year following completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims made policy.

Additional Requirements:

Premium Payments - The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The CONSULTANT shall be responsible for all deductibles in all of the CONSULTANT's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000. If Consultant has a deductible or self-insured retention greater than \$25,000, Consultant shall provide its financials to Placer County Risk Management for review and approval.

CONSULTANT's Obligations - CONSULTANT's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - CONSULTANT shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the CONSULTANT to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

Certificate Holder –Placer County subscribes to a service that monitors insurance certificates for compliance with the above requirements. The Certificate Holder on insurance certificates and related documents should read as follows:

County of Placer  
c/o EXIGIS LLC

PO Box 4668 ECM #35050  
New York, NY 10168-4668  
Fax: 888-355-3599  
Email: certificates-placer@riskworks.com

Upon initial award of a contract to your firm, Exigis will contact you with further instructions for providing insurance certificates which meet the terms of the contract. Certificates which amend or alter the coverage during the term of the contract, including updated certificates due to policy renewal, should be sent directly to Exigis via fax or email as indicated above.

11. **Non-Assignability.** This agreement, and the rights and duties thereunder, shall not be assigned in whole or in part without the express written consent of COUNTY.
12. **General Compliance with Laws.** The CONSULTANT shall exercise usual and customary care in its efforts to comply with applicable Federal, State and local laws, statutes, rules and regulations that are in effect as of the date of this agreement, or which may later be enacted. CONSULTANT shall comply with all laws regarding payment of prevailing wages, including, without limitation, California Labor Code Section 1720, as such laws may be amended or modified. CONSULTANT agrees to comply with any directives or regulations issued by the California State Department of Industrial Relations or any other regulatory body of competent jurisdiction.
13. **Prevailing Wage Requirements.** The services described herein are for publicly funded projects, considered "public works" as defined by California Labor Code Section 1720 et seq. Any firm awarded a contract as the result of this RFQ shall be responsible for compliance with all applicable prevailing wage laws, as well as any and all applicable state or federal wage laws, for services performed under any resulting contract.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
  - B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.
  - C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.
14. **Governing Law.** This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings regarding this agreement shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California.
  15. **Use of Sub-Consultants.** CONSULTANT shall not use the services of any SUBCONSULTANT without the written approval by COUNTY prior to SUBCONSULTANT commencing any work on this project.

- A. Nothing contained in this contract, any task order, or otherwise, shall create any contractual relation between THE COUNTY and any sub-consultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to THE COUNTY for the acts and omissions of its sub-consultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its sub consultant(s) is an independent obligation from THE COUNTY obligation to make payments to the CONSULTANT.
  - B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract or task order shall be subcontracted without written authorization by THE COUNTY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
  - C. CONSULTANT shall pay its sub-consultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by THE COUNTY.
  - D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to sub-consultants.
  - E. Any substitution of sub-consultant(s) must be approved in writing by THE COUNTY's Contract Administrator prior to the start of work by the sub-consultant(s).
16. **Suspension or Abandonment With or Without Cause.** COUNTY may suspend or abandon, by written notice, all or a portion of the work under this Agreement for any reason. CONSULTANT may request that all or a portion of the work under this Agreement be suspended or abandoned for any reason by notifying COUNTY in writing. Suspension or abandonment shall only be valid upon receipt of written approval of the request by COUNTY.
17. **Cancellation.** THE COUNTY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- A. THE COUNTY may terminate this agreement with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, THE COUNTY may proceed with the work in any manner deemed proper by THE COUNTY. If THE COUNTY terminates this contract with CONSULTANT, THE COUNTY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to THE COUNTY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.
  - B. The maximum amount for which the COUNTY shall be liable if this agreement is terminated is the amount set forth in applicable documents(s) based on this Master Services Agreement.
18. **Covenant Against Contingent Fees.** The CONSULTANT warrants that he 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 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.

- 19. **Disputes.** All claims, counter-claims, disputes, and other matters in question between COUNTY and CONSULTANT that cannot be settled by agreement between the parties will be presented to the Board of Supervisors of COUNTY for consideration. In the event the Board of Supervisors cannot resolve the matter or matters to the satisfaction of the parties, either party may undertake whatever legal actions against the other, as it deems necessary.
  
- 20. **Remedies.** In the event of breach of any condition or provision hereof, the COUNTY shall have the right, by prior written notice to the CONSULTANT, to terminate the employment of the CONSULTANT hereunder and cancel this Agreement and have the work thus canceled otherwise performed, without prejudice to any other rights or remedies of the COUNTY. The COUNTY shall have the benefit of such work as may have been completed up to the time of such termination or cancellation, and with respect to any part which shall have been delivered to and accepted by the COUNTY there shall be an equitable adjustment of compensation, applicable to specific task order.
  
- 21. **Notices.** All notices, and approvals or demands of any kind required or desired to be given by the COUNTY and CONSULTANT shall be in writing and shall be deemed served or given upon delivery if personally delivered or faxed, or, if mailed, forty-eight (48) hours after depositing the notice or demand in the United States mail, certified or registered, postage prepaid to the addresses shown below. COUNTY and CONSULTANT may from time to time by written notice to the other designate another place for receipt of future notices.

COUNTY OF PLACER:

Placer County Procurement Services  
Attn: Purchasing Manager  
2964 Richardson Drive  
Auburn, CA 95603

Phone: 530-886-2122  
Email: Procurement@placer.ca.gov

CONSULTANT:

Name of firm:  
Attn:

Phone:  
Email:

IN WITNESS WHEREOF, the parties have hereunto set their hands the year and date first above written.

**“CONSULTANT” \***

**“COUNTY”  
STATE OF CALIFORNIA  
COUNTY OF PLACER**

By: \_\_\_\_\_  
Officer Signature # 1  
(Signature Notarized)

By: \_\_\_\_\_  
Brett M. Wood, Purchasing Manager  
Procurement Services Division

By: \_\_\_\_\_  
Print Name and Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
Signature # 2  
(Signature Notarized)

By: \_\_\_\_\_  
County Counsel, Placer County

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name and Title

Date: \_\_\_\_\_

**ATTACHMENTS:**

- Exhibit A - Task Order
- Exhibit B - Fee Schedule

\*If Contractor is a corporation, contract must be signed by the following two corporate officers, one from each category: (1) Chairman of the Board, President or any Vice President, and (2), Corporate Secretary, any Assistant Corporate Secretary, Chief Financial Officer or any Treasurer or Assistant Treasurer, unless an authenticated copy of a resolution of the corporation which delegates to a single officer the authority to bind the corporation is attached to this contract.

If Contractor is another type of business entity, such as a partnership or limited liability company, contract must be signed by officer(s) possessing legal authority to bind the entity. An authenticated copy of a resolution, partnership agreement, operating agreement or other legal evidence of signature authority must be attached to this contract."

**EXHIBIT A**  
**TASK ORDER**

Task Specific Scope of Services, Related Payment and other applicable forms

This page is left intentionally blank and will be negotiated on a case-by-case basis, based on this MSA and Consultant's proposal.

**EXHIBIT B**  
**FEE SCHEDULE**

This page is left intentionally blank, and will be completed upon final award of this MSA, based on Consultant's proposed Fee Schedule.



## EXHIBIT C

### A&E CONTRACT LANGUAGE

The contractual language provided below applies to federally funded projects. Any firm awarded a contract for Local Assistance Federal-Aid Projects only shall be responsible for additional terms and conditions found in Exhibit 10-R of the "CALTRANS Local Assistance Procedures Manual" as applicable, which include but are not limited to the following, in addition to the terms and conditions stated in the Master Services Agreement.

1. **Performance Period.** This contract shall go into effect on (DATE), contingent upon approval by PLACER COUNTY, and CONSULTANT shall commence work after notification to proceed by PLACER COUNTY PROCUREMENT SERVICES DIVISION. The contract shall end on (DATE), unless extended by contract amendment.

2. **Cost Principles and Administrative Requirements.** CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allow ability of individual items. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.

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

4. **Prohibition of Expending Local Agency State or Federal Funds for Lobbying.** *Applies if task order exceed \$150,000.*

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

- (1) No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension,

continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.