

PSOMAS

**Agreement for Construction Engineering & Construction Support Services
for the
Missouri Flat Road / U.S. Highway 50 Interchange Project**

AGREEMENT FOR SERVICES # AGMT 07-1421

THIS AGREEMENT, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and PSOMAS, a corporation duly qualified to conduct business in the State of California, whose principal place of business is 11444 West Olympic Boulevard, Suite 750, Los Angeles, California 90064 and whose local office address is 1075 Creekside Ridge Drive, Suite 200, Roseville, California 95678 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a consultant to assist its Department of Transportation (hereinafter referred to as "DOT") with professional construction engineering and construction support services associated with the Missouri Flat Road / U.S. Highway 50 Interchange Project; and

WHEREAS, Consultant has represented to County that it is specially trained, experienced, expert, and competent to perform the special services required hereunder, and County has determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws and ordinances applicable to the work, including compliance with prevailing wage rates and their payment in accordance with California Labor Code, Section 1775; and

WHEREAS, County has determined that the provision of such services provided by Consultant are in the public's best interest, and authorized by El Dorado County Charter, Section 210(b)(6) and/or Government Code Section 31000;

NOW, THEREFORE, County and Consultant mutually agree as follows:

ARTICLE I

Scope of Services:

- A. Consultant's services are to be provided specifically in support of the Missouri Flat Road / U.S. Highway 50 Interchange Project (hereinafter referred to as "Project"). The actual number of issues addressed, levels of service provided and associated levels of effort will vary depending on project conditions, means and methods employed, and the levels of support required by DOT as described in the individual Task Orders issued pursuant to this Agreement.

B. Consultant shall perform all professional and technical services, work, and tasks required to accomplish the objectives set forth herein, and shall provide and make available Consultant's own personnel, materials, subconsultants, vehicles, and equipment necessary to assist DOT's West Slope Construction Unit with construction engineering and construction support services for the Project, which may include, but shall not be limited to:

1) Preconstruction Activities in accordance with County directives and in general conformance with Caltrans standards including, but not limited to:

- a) Review of contract documents for items including, but not limited to:
 - i) Ambiguities, error and omissions
 - ii) Contradictions between plans, specifications, item payment clauses and the Engineer's estimate
 - iii) Clarity, completeness, consistency and ease of construction
 - iv) Value engineering
 - v) Issues that might cause inflated bid prices or potential disputes during construction
 - vi) Impacts of construction on public traffic
 - vii) Impacts of construction on right-of-way
 - viii) Impacts of construction on utility facilities
- b) Documentation of pre-construction conditions via digital still photography and video recordings
- c) Review of Resident Engineer's Pending File
- d) Coordinate and attend meetings between Consultant Resident Engineer, County and Project Designer
- e) Coordinate and attend meetings between Consultant Resident Engineer, County, and Caltrans Oversight Engineer
- f) Coordinate and attend pre-construction meetings with County's contractor for Project

2) Construction inspection services in accordance with County directives and in general conformance with the current edition of the *Construction Manual* issued by the State of California Department of Transportation (Caltrans) including, but not limited to:

- a) Inspection of construction activities on the Project
- b) Inspection of utility work in County right-of-way

3) Construction administration services (Resident Engineer duties) in accordance with County directives and in general conformance with the current edition of the *Caltrans Construction Manual* including, but not limited to:

- a) Administration of the Project
- b) Supervision of Consultant and/or County inspection staff
- c) Coordination of materials testing and construction staking
- d) Coordination and administration of utility company construction activities

- 4) Construction engineering services including, but not limited to:
 - a) Analysis of temporary construction systems such as bridge falsework or temporary shoring
 - b) Analysis of working drawings
 - c) Calculation of post tensioning elongations
 - d) Calculation, analysis, and review of temporary and finished elevations
 - e) Development, analysis and review of revisions to contract documents for incorporation into contract change orders
 - f) Analysis of portland cement concrete and asphalt concrete mix designs
- 5) Construction claims analysis including, but not limited to:
 - a) Analysis and review of claim documentation submitted by contractors
 - b) Development of claim position reports
 - c) Preparation and presentation of oral and written arguments and rebuttals for Disputes Review Boards and/or Boards of Review
 - d) Attending and/or representing the County at mediation and/or arbitration hearings
- 6) Construction schedule analysis including, but not limited to:
 - a) Review of baseline schedules
 - b) Review of update schedules
 - c) Review of as-built schedules
 - d) Analysis of critical path right-of-way delays, utility delays, weather delays, or change order work and their impacts on proposed and actual schedules
- 7) Inspection and testing of welding at construction sites including, but not limited to:
 - a) Providing certified welding inspectors for the Project
 - b) Providing destructive and non-destructive laboratory testing on welds performed on the Project
- 8) Construction staking including, but not limited to:
 - a) Providing construction staking in accordance with the current edition of the *Caltrans Surveys Manual*
 - b) Monumenting right-of-way
 - c) Providing three-dimensional locations of topographic features as requested by the County
- 9) Providing services related to storm water runoff from construction sites including, but not limited to:

- a) Review and analysis of Storm Water Pollution Prevention Plans
- b) Inspection and evaluation of water pollution control measures deployed at the Project construction site
- c) Sampling and analysis of surface and ground water at locations upstream from, inside of, and downstream from the Project construction site

10) Public relations duties including, but not limited to:

- a) Preparation of press releases
- b) Meeting with the public to explain or resolve issues related to the Project

11) Office administration duties including, but not limited to:

- a) Clerical duties
- b) Filing and maintaining Project records in accordance with the current edition of the *Caltrans Construction Manual*
- c) Preparation of progress estimates to be used to establish payment for contractors
- d) Preparation of written materials such as letters, memoranda, and reports
- e) Ensuring contractor fulfillment of labor compliance requirements
- f) Checking extra work bills submitted by contractors for accuracy and completeness

C. Before proceeding with any work under this Agreement, the parties will identify the specific services to be provided for each assignment in individual Task Orders to be issued in accordance with this Agreement. The specific services for each assignment shall be determined at a meeting or telephone conference between Consultant and County's Contract Administrator, or designee, to discuss the needs, applicable standards, required deliverables, specific Consultant staff, subconsultants (if required), and any necessary permits required on a task-by-task basis. Following the meeting, Consultant shall provide the Contract Administrator with a written scope of work, a schedule including a list of tasks with completion dates and a target completion date for the overall scope of work, and a not-to-exceed cost to complete the work (Task Order), which shall require written approval, authorization, and written notification to proceed from County's Contract Administrator, prior to commencement of the work. No payment will be made for any work performed prior to approval of the Task Order, and no payment will be made for amounts in excess of the not-to-exceed amount of the Task Order.

Consultant shall provide the Contract Administrator with the names and titles of Consultant's representatives that are authorized to bind Consultant by signing Task Orders and Task Order Amendments on Consultant's behalf. Consultant's notification of individuals authorized to execute Task Orders and Task Order Amendments on Consultant's behalf shall be communicated to County in accordance with the provisions of Article XIX, Notice to Parties, of this Agreement.

The period of performance for Task Orders shall be in accordance with dates specified in each Task Order. No payment will be made for any work performed before or after the period of performance in the Task Order, unless County's Contract Administrator and Consultant amend the Task Order. No Task Order will be written which extends beyond the expiration date of this Agreement, nor the cumulative total of the not-to-exceed Contract amount.

- D. If a submittal is required to be an electronic file, Consultant shall produce the file with software approved by County such as programs in the Microsoft Office Suite, Primavera, AutoCADD or other engineering software used for analytical purposes. Electronic versions of digital photographs and videos shall be transmitted to County by email or on compact discs, or as specified in the individual Task Orders issued pursuant to this Agreement. Failure to submit the requested deliverables in the format required shall be grounds for termination of the Agreement, as provided in Article XVIII, Default, Termination, and Cancellation.
- E. County shall provide a work order number and task code for each Task Order.
- F. Consultant's Project Manager shall be responsible for all matters related to Consultant's personnel, subconsultants, and operations, including, but not limited to:
 - 1) Assigning qualified personnel to perform the required Task Order work and to prepare the deliverables required by the Task Orders.
 - 2) Reviewing, monitoring, training and directing Consultant's personnel and any subconsultants authorized herein.

All of the tasks included in this Article are the responsibility of Consultant, unless specifically described as a task or item of work to be provided by County. Consultant shall be responsible for the supervision, administration and work performed by any subconsultants for services rendered under this Agreement.

ARTICLE II

Term: This Agreement shall become effective when fully executed by both parties hereto and shall expire upon the later of County's recordation of the Notice of Completion for the Project or the resolution of all construction claims, if any, associated with the Project.

ARTICLE III

Compensation for Services:

- A. For services provided herein, including all deliverables described in individual Task Orders, County agrees to pay Consultant within thirty (30) days following County receipt and approval of itemized invoices and progress reports detailing services rendered. For the purposes hereof, the billing rates for all services except surveying services shall be in accordance with Exhibit A, marked "Fee Schedule – Construction Services," incorporated herein and made by reference a part hereof. The hourly rates listed in Exhibit A are inclusive of vehicles (including mileage),

laptop computers, cellular phones, digital cameras, safety equipment and standard tools and equipment. The hourly rates indicated in Exhibit A are effective through April 30, 2007 and are subject to a four percent (4%) increase beginning on May 1, 2007 and effective through April 30, 2008 and an additional four percent (4%) increase on May 1, 2008 and effective through April 30, 2009. On or before April 1, 2009, and on or before April 1 of each successive year, Consultant shall submit a new proposed fee schedule for Construction Services which shall be effective for the next year, and which shall require written approval and acceptance by County's Contract Administrator, prior to the new rates becoming effective. In no instance shall the rates be increased by more than four percent (4%) per year. Upon the Contract Administrator's written approval and acceptance, the new fee schedules shall be attached as addenda to this Agreement.

The billing rates for Surveying Services shall be in accordance with Exhibit B, marked "Fee Schedule – Surveying and Geospatial Services," incorporated herein and made by reference a part hereof. The rates indicated in Exhibit B are effective through March 31, 2009. On or before March 1, 2009, and on or before March 1 of each successive year, Consultant shall submit a new proposed fee schedule for Surveying Services which shall be effective for the next year, and which shall require written approval and acceptance by County's Contract Administrator, prior to the new rates becoming effective. In no instance shall the rates be increased by more than four percent (4%) per year. Upon the Contract Administrator's written approval and acceptance, the new fee schedules shall be attached as addenda to this Agreement.

The total amount payable by County for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless County's Contract Administrator and Consultant amend the Task Order.

The total amount of this Agreement, inclusive of all costs and Task Orders, and inclusive of all work of subconsultants and expenses shall not exceed \$2,450,000.00.

- B. Neither mileage nor travel costs (i.e., overnight lodging, meals, parking, airfare, bridge tolls, etc.) will be reimbursed for any services performed under this Agreement by Consultant or by any authorized subconsultants.
- C. Itemized invoices shall follow the format specified by County and shall reference this Agreement number, the County-supplied work order number and Task Order number both on their faces and on any enclosures or back-up documentation. Consultant shall bill County for only one Task Order per invoice. Consultant shall attach copies of any progress reports required under the provisions of Article V, Progress Reports, that relate to the services being billed, as backup documentation to any invoices submitted for payment under the terms of this Agreement. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado
Department of Transportation
2850 Fairlane Court
Placerville, California 95667
Attn: Administration Division – Accounts Payable

or to such other location as County directs.

- D. In the event that Consultant fails to deliver, in the format specified, the deliverables required in this Agreement, County at its sole option may delay the monthly payment for the period of time of the delay, cease all payments until such time as the required deliverables are received, or proceed as set forth in Article XVIII, Default, Termination, and Cancellation.

ARTICLE IV

Standards for Work: Services rendered under this Agreement shall be performed in accordance with the guidelines set forth in the *Caltrans Construction Manual*, *Caltrans Materials Testing Manual*, *Caltrans Local Assistance Procedures Manual*, the El Dorado County Department of Transportation's Quality Assurance Program, ASTM testing procedures, and all other applicable Caltrans, Federal Highway Administration (FHWA), federal, state and local laws, County guidelines and accepted industry standards, and shall be performed in a safe, professional, skillful and workmanlike manner.

ARTICLE V

Progress Reports: Upon issuance of a Task Order, Consultant shall submit progress reports to the Contract Administrator at intervals that are commensurate with the requirements of the tasks and the items of work being performed and based upon a mutually agreeable schedule. At a minimum, Consultant shall submit progress reports once a month. The reports shall be sufficiently detailed for the Contract Administrator, or designee, to determine if Consultant is performing to expectations and is on schedule, to provide communication of interim findings, and to afford occasions for airing difficulties or special circumstances encountered so that remedies can be developed. County's review of these reports will ensure that Consultant's work meets a level of acceptability as determined by the Contract Administrator and Consultant shall be required to modify its work as necessary to meet that level of acceptability as defined by the Contract Administrator. Separate detail shall be provided for each ongoing Task Order. Progress reports shall include the total number of hours worked by Consultant and any authorized subconsultants and shall include descriptions of the tasks and work performed, including a description of any deliverables submitted during the reporting period and the anticipated tasks, work and deliverables proposed for the subsequent reporting period. Any invoices submitted by Consultant for payment under the terms of this Agreement shall include copies of the progress reports that relate to the services being billed on those invoices.

ARTICLE VI

Licenses: Consultant represents that it and any and all subconsultants employed under this Agreement are duly licensed in good standing by the State of California to perform the

services contemplated under this Agreement, and that Consultant and all subconsultants shall maintain said licenses in good standing throughout the term of this Agreement.

ARTICLE VII

Business License: County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Consultant warrants and represents that it shall comply with all of the requirements of the County Business License Ordinance prior to beginning work under this Agreement and at all times during the term of this Agreement.

ARTICLE VIII

Ownership of Data: Upon completion or earlier termination of all services under this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in County without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to County. Copies may be made for Consultant's records, but shall not be furnished to others without written authorization from County's Contract Administrator. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by County. Consultant shall furnish County all necessary copies of data, including data stored in electronic format, needed to complete the review and approval process of the services provided under this Agreement.

ARTICLE IX

Consultant's Project Manager: Consultant designates Andrew N. Gust, Vice President as its Project Manager for this Agreement. Consultant's Project Manager, or County-approved designee, shall be accessible to County's Contract Administrator, or designee, during normal County working hours and shall respond within twenty-four (24) hours to County inquiries or requests. Consultant's Project Manager shall be responsible for all matters related to Consultant's personnel, operations and any subconsultants authorized under individual Task Orders issued including, but not limited to (1) assigning qualified personnel to perform the work and to prepare the deliverables required by the Task Orders; and (2) reviewing, monitoring, training and directing Consultant's personnel and any subconsultants authorized herein.

ARTICLE X

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto. There shall be no change in Consultant's Project Manager or subconsultants, which shall be established at the issuance of individual Task Orders, without prior written approval by County's Contract Administrator.

ARTICLE XI

Consultant to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during term hereof.

ARTICLE XII

Confidentiality:

- A. All financial, statistical, personal, technical or other data and information relative to County's operations, which are designated confidential by County and made available to Consultant in order to carry out services pursuant to this Agreement, shall be protected by Consultant from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or at public hearings held by County relating to the Contract, shall not authorize Consultant to further disclose such information, or to disseminate the same on any other occasion.
- C. Consultant shall not comment publicly to the press or any other media regarding this Agreement or County's actions on the same, except to County's staff, Consultant's own personnel involved in the performance of this Contract, at public hearings or in response to questions from a legislative committee.
- D. Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this Contract without prior review of the contents thereof by County, and receipt of the Contract Administrator's written permission.

ARTICLE XIII

Assignment and Delegation: Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County. Notwithstanding this Article, Consultant is authorized to utilize any subconsultants authorized in individual Task Orders issued pursuant to this Agreement for the particular tasks, work and deliverables identified therein. At no time shall County be obligated to pay separately for subconsultant services. Consultant shall require each subconsultant, to the extent of the work to be performed by the subconsultant, to be bound to Consultant by the terms of this Agreement and to assume toward Consultant all the obligations and responsibilities that Consultant, by this Agreement, assumes toward County.

ARTICLE XIV

Independent Consultant/Liability: Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subconsultants, if any are authorized herein, as they

relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees and subconsultants. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees or subconsultants.

ARTICLE XV

Nondiscrimination:

- A. County may require Consultant's Services on projects involving funding from various state and/or federal agencies, and as a consequence, Consultant shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to as follows: Consultant and his/her employees and representatives 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, or sex; Consultant shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and applicable regulations promulgated thereunder (California Administrative Code, 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 Administrative Code incorporated into this Agreement by reference and made a part hereof as if set forth in full; Title VI of the Civil Rights Act of 1964, as amended. Consultant and his/her employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Consultant shall include the nondiscrimination and compliance provisions in any of its agreements that affect or are related to the Services performed herein.
- C. The Consultant's signature shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

ARTICLE XVI

Prevailing Wage: County requires Consultant's Services on public works project(s) involving local, State and/or Federal funds to which prevailing wage requirements may apply. As a consequence, Consultant shall comply with all applicable State and Federal prevailing wage rates, statutes, rules and regulations then in effect. In the event of conflict between applicable Federal and State provisions, the higher prevailing wage rate will apply. Consultant shall use the general prevailing wage rates determined by the Director of Industrial Relations for the county in which the work is to be done, which are available at

the offices of the District Director of Transportation for the district in which the work is situated. Changes, if any, to the general prevailing wage rates will be available at the same location. The Federal minimum wage rates are determined by the United States Secretary of Labor and may be examined at the office described above. Future effective general prevailing wage rates which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed in the general prevailing wage rates.

Consultant shall comply with all wage requirements, as set forth in Labor Code Sections 1770 et seq., 1773.2, 1775, 1776, 1810, & 1813. In accordance with the provisions of Labor Code Section 1810, eight (8) hours of labor shall constitute a legal day's work upon all work done hereunder, and Consultant and any subconsultant authorized under this Contract shall also conform to and be bound by the provisions of Labor Code Sections 1810 through 1815.

ARTICLE XVII

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE XVIII

Default, Termination, and Cancellation:

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (Time to Cure), then such party shall be in default. The Time to Cure may be extended in the discretion of the party giving notice. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the Time to Cure has expired.

- B. Bankruptcy: This Agreement, at the option of County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County for any reason. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates, as set forth in the Notice of Termination provided to Consultant, and for such other services which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

ARTICLE XIX

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado
Department Of Transportation
2850 Fairlane Court
Placerville, California 95667

Attn.: Robert S. Slater,
Deputy Director, Engineering

With a Copy to:

County of El Dorado
Department Of Transportation
2850 Fairlane Court
Placerville, California 95667

Attn: Tim C. Prudhel,
Contract Services Officer

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

PSOMAS
1075 Creekside Ridge Drive, Suite 200
Roseville, California 95678

Attn.: Mr. Andrew N. Gust,
Vice President

or to such other location as Consultant directs.

ARTICLE XX

Indemnity: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, agents, employees and representatives from and against any and all claims, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of Consultant includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778. 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.

ARTICLE XXI

Insurance: Consultant shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by Consultant in performance of the Agreement.
- D. In the event Consultant is a licensed professional and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Consultant shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.

- F. The insurance will be issued by an insurance company acceptable to County's Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Consultant agrees that the insurance required herein shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires at any time or times during the term of this contract, Consultant shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this contract upon the occurrence of such event. New certificates of insurance are subject to the approval of County's Risk Management Division, and Consultant agrees that no work or services shall be performed prior to the giving of such approval.
- H. The certificate of insurance must include the following provisions stating that:
 - 1. The insurer will not cancel the insured's coverage without 30-day prior written notice to County; and
 - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all general and excess liability insurance policies.
- I. Consultant's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to, and approved, by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department, either independently or in consultation with County's Risk Management Division as essential for protection of County.

In addition, Consultant shall ensure that all subconsultants maintain Workers' Compensation, general liability, auto liability and professional liability insurance as specified above and shall provide County with proof of same.

ARTICLE XXII

Interest of Public Official: No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XXIII

Interest of Consultant: Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree, in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

ARTICLE XXIV

California Residency (Form 590): All independent Consultants providing services to County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. Consultant will be required to submit a Form 590 prior to execution of this Agreement, or County shall withhold seven (7) percent of each payment made to Consultant during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

ARTICLE XXV

Taxpayer Identification Number (Form W-9): All independent contractors or corporations providing services to County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

ARTICLE XXVI

California Forum and Law: Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XXVII

Year 2000 Compliance: Consultant agrees that all hardware and software developed, distributed, installed, programmed, or employed as a result of this order will comply with ISO 9000 date format to correctly manipulate and present date-sensitive data.

Upon delivery of product and thereafter, the date and date logic component shall effectively and efficiently operate using a four-digit year.

Upon written notification by County of any hardware or software failure to comply with ISO 9000 date format, Consultant will replace or correct the failing component with compliant hardware or software immediately, at no cost to County.

ARTICLE XXVIII

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Robert S. Slater, Deputy Director, Engineering, Department of Transportation, or successor.

ARTICLE XXIX

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.

ARTICLE XXX

Partial Invalidity: If any provision of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XXXI

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

Requesting Department Concurrence:

By: _____
Richard W. Shepard, P.E.
Director of Transportation

Dated: _____

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

-- COUNTY OF EL DORADO --

By: _____

Dated: _____

Board of Supervisors
"County"

Attest:
Cindy Keck
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

-- PSOMAS --

By: _____
Andrew N. Gust
Vice President
"Consultant"

Dated: _____

By: _____
Corporate Secretary

Dated: _____

PSOMAS

Exhibit A

Fee Schedule – Construction Services

Effective through April 30, 2007 *

Construction Management Group
Northern California Region

West Slope – Hourly Rates

\$ 44 - \$ 80	- Administrative Assistant
\$ 76 - \$ 95	- Construction Inspector
\$ 89 - \$105	- Senior Construction Inspector
\$ 96 - \$115	- Field Operations Manager
\$ 79 - \$115	- Assistant RE / Office Engineer
\$115 - \$145	- Resident Engineer
\$140 - \$175	- Senior Resident Engineer
\$125 - \$190	- Project Manager

* Hourly rates will be adjusted up by 4% for the fiscal year May 1, 2007 thru April 30, 2008

Hourly rates will be adjusted up by 4% for the fiscal year May 1, 2008 thru April 30, 2009

On or before April 1, 2009, and on or before April 1 of each successive year, Consultant shall submit a new proposed fee schedule which shall be effective for the next fiscal year beginning May 1, and which shall require written approval and acceptance by County's Contract Administrator, prior to the new rates becoming effective. In no instance shall the rates be increased by more than four percent (4%) per year. Upon the Contract Administrator's written approval and acceptance, the new fee schedules shall be attached as addenda to this Agreement.

Reimbursables

Rates include related costs of vehicle, laptop computer, cell phone, digital camera, safety equipment, and standard tools and equipment. All other direct expenses, including prints, plots and messenger service will be billed at cost plus ten percent (10%).

The services of outside consultants will be charged at cost plus fifteen percent (15%).

The above schedule is for straight time. Overtime will be charged at 135 percent of the standard hourly rates. Sundays and holidays will be charged at 170 percent of the standard hourly rates.

A shift which commences after 2:00pm or before 4:00am, during any twenty-four hour period, commencing at 12:01am is subject to a twelve and one-half percent (12.5%) differential.

The above ranges for Field Operations Manager, Senior Construction Inspector, and Construction Inspector are in compliance with SB1999 pertaining to prevailing wage requirements.

Specific billing rates can be determined based on actual individual employee rates or as an average by position.

PSOMAS

Exhibit B

Fee Schedule – Surveying and Geospatial Services

NORTHERN CALIFORNIA

Effective March 1, 2007 through February 29, 2008

Hourly Rates

OFFICE SERVICES

\$ 72.00	- administrative assistant
\$ 85.00	- project assistant/administrator
\$ 94.00	- CADD technician/editor
\$ 108.00	- assistant surveyor/compiler
\$ 124.00	- surveyor/photogrammetrist
\$ 140.00	- project surveyor/photogrammetrist
\$ 166.00	- project manager
\$ 182.00	- project director

FIELD SERVICES

\$ 155.00 *	- one-person survey party
\$ 225.00 *	- two-person survey party
\$ 340.00 *	- three-person survey party

* Hourly rates for field survey parties include normal usage of survey supplies and vehicle expenses.

SPECIAL EQUIPMENT AND OTHER COSTS

\$ 150.00	- per GPS receiver per day
\$ 450.00	- per Terrestrial Laser Scanner/day

Prints, plot media, messenger service, and other direct expenses will be charged at cost plus ten percent. The services of outside consultants will be charged at cost plus fifteen percent (15%).

The above schedule is for straight time and includes overhead. Overtime will be charged at 135 percent of the standard hourly rates. Sundays and holidays will be charged at 170 percent of the standard hourly rates.

Fee Schedule – Surveying and Geospatial Services

NORTHERN CALIFORNIA

Effective March 1, 2008 through March 31, 2009*

Hourly Rates

OFFICE SERVICES

\$ 75.00	- administrative assistant
\$ 89.00	- project assistant/administrator
\$ 99.00	- CADD technician/editor
\$ 113.00	- assistant surveyor/compiler
\$ 130.00	- surveyor/photogrammetrist
\$ 147.00	- project surveyor/photogrammetrist
\$ 174.00	- project manager
\$ 191.00	- project director

FIELD SERVICES

\$ 160.00 *	- one-person survey party
\$ 236.00 *	- two-person survey party
\$ 356.00 *	- three-person survey party

* Hourly rates for field survey parties include normal usage of survey supplies and vehicle expenses.

SPECIAL EQUIPMENT AND OTHER COSTS

\$ 150.00	- per GPS receiver per day
\$ 450.00	- per Terrestrial Laser Scanner/day

Prints, plot media, messenger service, and other direct expenses will be charged at cost plus ten percent (10%). The services of outside consultants will be charged at cost plus fifteen percent (15%).

The above schedule is for straight time and includes overhead. Overtime will be charged at 135 percent of the standard hourly rates. Sundays and holidays will be charged at 170 percent of the standard hourly rates.

*On or before March 1, 2009, and on or before March 1 of each successive year, Consultant shall submit a new proposed fee schedule which shall be effective for the next year beginning April 1, and which shall require written approval and acceptance by County's Contract Administrator, prior to the new rates becoming effective. In no instance shall the rates be increased by more than four percent (4%) per year. Upon the Contract Administrator's written approval and acceptance, the new fee schedules shall be attached as addenda to this Agreement.