

STUDENT INTERN AGREEMENT

This Student Intern Agreement ("Agreement") is entered into effective on July 11, 2017 (Effective Date") by and between the County of Fresno, a political subdivision of the State of California (hereinafter "County") and the California State University, Fresno Foundation (hereinafter "Foundation").

Recitals

- A. The Foundation employs California State University, Fresno students for the purpose of placing them with private and public agencies to serve as interns to gain practical experience and training in various fields.
- B. The County has a need for assistance in its Public Works and Planning Department ("Department"), and desires to select and assign qualified students as interns to the Department to provide a variety of services, which will benefit the Foundation and County and provide the interns with practical experience and training to better prepare them to compete for jobs.
- C. The Foundation desires to make qualified students available for County's selection and assignment to the Department.
- D. The Foundation and County desire to enter into this Agreement and set forth the terms and conditions whereby qualified students ("Interns") may be selected and assigned to the Department.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the County and Foundation hereby agree to the following:

AGREEMENT

1. Scope of Services. The Foundation agrees to provide Interns to the County as set forth herein.

A. Intern eligibility. Interns shall be enrolled in at least one of the following fields of study to be eligible for assignment to Department under this Agreement:

- Engineering
- Construction Management
- Geography
- Physics
- Computer Science
- Mathematics
- Earth and Environmental Sciences
- Other related fields as approved by Foundation and County

The Foundation shall assure that all Interns are enrolled in California State University, Fresno in one of the fields of studies described above, and that each Intern is enrolled at least half time at all times while assigned under this Agreement (half time

shall be a minimum of six (6) semester units for undergraduate students and four (4) semester units for graduate students).

B. Selection of Interns. To the extent practicable, the Foundation shall provide the County with a list of at least three (3) Intern applicants for each position designated by the County within five (5) working days of County's request for Intern applicants. The Foundation shall provide County with resumes for each Intern applicant, and the County shall arrange interviews with the Intern applicants. The County shall notify the Foundation, in writing, of the Intern selections, the positions each Intern will be assigned, and the start date for the assignment.

The County shall notify the Foundation of any Intern selections and assignments to a position that will require fingerprints (live scan), an initial drug screening, and/or a DMV driver history report. Selected Interns shall only be required to submit to finger printing (live scan), drug screening, and a DMV report when assigned to a position in which regular County employees would be subject to such finger printing, drug screening and DMV report requirements. The County shall be responsible for all costs associated with the fingerprinting (live scan), criminal history report, drug screening of Interns, and DMV printout for Interns, including reimbursing Interns or the Foundation upon proof of expenses incurred therefor.

C. Intern Services and Duties. Interns assigned to the Department shall be under the direction and supervision of Steven White, Director, Public Works and Planning. Interns shall be assigned the following duties in order to gain training and experience with practical scientific/technical duties and develop familiarity with the scientific methods, laws and programs administered by the County. Duties shall include:

1. Assist in record keeping services, data entry, tracking of building inventory and real property assets, and engineering and environmental monitoring studies. Interns may also be asked to assist in conducting data collection for these studies.
2. Create graphs, maps and other drawings using software programs such as AutoCAD and ArcMap.
3. Collect, analyze and process engineering and environmental data into various computer programs. Use word processing, spreadsheet, and database computer programs to assist staff with engineering and environmental projects. Use spreadsheets, graphing, and statistical programs to enter and analyze data.

Interns shall be subject to and abide by Foundation employment practices and policies. The Interns shall also comply with applicable County policies, including without limitation, anti-harassment and technology use, but only to the extent that such policies do not conflict with Foundation employment practices and policies. Interns may be required to sign acknowledgements regarding such policies.

D. General Administration. This Agreement is not intended to be and shall not constitute a personal services contract subject to California Government Code Sections 19130-19135. Nevertheless, the County and the Foundation agree to cooperate and use their best efforts to ensure that all Interns assigned to the County and Department pursuant to this Agreement shall not:

- Accrue County of Fresno Civil Service status;
- Work more than 194 days in a 365 day period;
- Cause the displacement of County of Fresno employees;
- Perform work that would normally be assigned to permanent, full-time County employees;
- Perform more than 20 hours per week during the academic year when class is in session, or more than 40 hours per week during any period of time when the class is not in session (winter break, spring break, summer break, etc.)

The County and the Foundation shall discuss issues related to selecting, assigning, evaluating, and terminating Interns, and other administrative details, as necessary. County may terminate an Intern assignment unilaterally under this Agreement only if the Intern poses an immediate threat to public safety or the safety of County employees. Except as expressly provided herein, only the Foundation shall have the authority to terminate or reassign Interns assigned to County hereunder. Any request for termination or re-assignment of Interns shall be made to the Foundation at least one week in advance, and shall be decided by the Foundation.

2. Payment for Services. As compensation for the Foundation's services, County shall reimburse the Foundation for the Foundation's direct cost of providing the services, and County shall also pay the Foundation an administrative fee as set forth below, but the total amount paid to the Foundation shall not exceed \$80,000.00 during the term of this Agreement.

A. Compensation Rates. The following compensation rates shall apply during the term of this Agreement.

- RANGE A Direct Costs – Undergraduate student Interns – [\$12.00 - \$13.00 per hour] plus necessary state and federal payroll taxes.
- RANGE B Direct Costs – Graduate student Interns - \$15.00 - \$16.00 per hour plus necessary state and federal payroll taxes.
- INDIRECT COSTS – An administrative fee will be charged at a rate of 15 percent of total direct service costs billed to the County by the Foundation and will be included in the monthly billing invoice.

Notwithstanding the foregoing, the hourly rates contained in this section 2A shall be increased at such times and in such amounts as to ensure that rates paid hereunder comply at all times with California minimum wage laws.

B. Monthly Invoices and Payments. The Foundation shall send monthly invoices to the County describing the direct costs and applicable administrative fee payable for services rendered in the previous months. The County shall review and approve the invoiced amount and pay the approved amount to the Foundation within twenty (20) business days following receipt of the invoice.

3. Independent Contractor. In performance of the services, work, duties, and obligations assumed by the Foundation under this Agreement, it is mutually understood and agreed that the Foundation, including any and all of the Foundation's officers, agents, and employees shall at all

times be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, volunteer, joint venture, partner, or associate of the County for any purpose. Furthermore, County shall have no right to control, supervise, or direct the manner or method by which the Foundation shall perform its services, work, and duties under this Agreement. However, County shall retain the right to administer this Agreement so as to verify that the Foundation is performing its obligations in accordance with the terms and conditions hereof.

Nothing contained in this Agreement shall be deemed to create any employment or contractual relationship between the County and the Foundation's employees, nor shall anything contained in this Agreement be deemed to give any third party, including but not limited to Interns assigned to the County or Department, any claim or right of action against County, including without limitation worker's compensation, retirement benefits, or any other employee incentive given to County's employees. It is the express understanding and intention of the parties that no relationship of employer and employee, master and servant, or principal and agent shall exist between the County and the Foundation, or the County and any of the Interns assigned to the County or Department, or between the Foundation and the employees, agents, or representatives of the County, by virtue of this Agreement.

4. Term. The term of this Agreement shall be for a period of three (3) years, effective upon execution by the parties. This Agreement may be extended for two (2) additional consecutive twelve (12) month periods upon written approval of both parties no later than thirty (30) days prior to the first day of the next twelve (12) month extension period. The County's Director of the Department of Public Works and Planning ("Director"), or his or her designee, is authorized to execute such written approval on behalf of the County, based on Foundation's satisfactory performance.

5. Early Termination. Notwithstanding Section 4, this Agreement may be terminated by either party at any time, with or without cause, upon providing the other party with thirty (30) days written notice prior to the effective date of termination. After termination, the County shall reimburse Foundation for services rendered and necessary expenses incurred to the termination date upon receipt of an invoice from Foundation for such services and expenses.

6. Insurance. County at its own expense, shall maintain the following types and limits of insurance throughout the duration of the term of this Agreement:

- A. Comprehensive General, bodily injury, and property damage insurance, with One Million Dollars (\$1,000,000) combined single limits; and
- B. Comprehensive automobile liability for owned and rented/leased vehicles, including bodily injury and property damage coverage, with One Million Dollars (\$1,000,000) combined single limits.
- C. A policy of Worker's Compensation insurance as may be required by the California Labor Code.

For purposes of this Agreement, students/interns will be explicitly considered employees of Foundation. Without limiting the County's right to obtain indemnification from Foundation or any third parties, Foundation, at its sole expense, shall maintain in full force and effect, the following insurance policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the term of the Agreement:

a. Commercial General Liability

Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). This policy shall be issued on a per occurrence basis. County may require specific coverages including completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed necessary because of the nature of this contract.

b. Automobile Liability

Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000.00). Coverage should include owned and non-owned vehicles used in connection with this Agreement.

c. Professional Liability

If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

d. Worker's Compensation

A policy of Worker's Compensation insurance as may be required by the California Labor Code. Foundation shall be responsible for Worker's Compensation coverage for students when participating in the program.

Foundation shall obtain endorsements to its Commercial General Liability insurance naming the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by County, its officers, agents and employees shall be excess only and not contributing with insurance provided under Foundation's policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written notice given to County. County shall obtain endorsements to its Commercial General Liability insurance naming Foundation; the State of California; the Trustees of the California State University; California State University, Fresno; and all of said entities' employees, agents, directors, officers and volunteers (collectively, "Foundation Indemnitees"), as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds shall apply as a primary insurance and any other insurance, or self-insurance, maintained by Foundation Indemnitees shall be excess only and not contributing with insurance provided under County's policies herein. Such insurance shall not be cancelled or changed without a minimum of thirty (30) days' advance written notice given to Foundation.

Within Thirty (30) days from the date this Agreement is fully executed (and thereafter prior to expiration of each insurance policy required hereunder), each party shall provide

the other certificates of insurance and endorsement as stated above for all of the foregoing policies, as required herein.

In the event a party hereto fails to keep in effect at all times insurance coverage as herein provided, the other party may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

All policies shall be issued by admitted insurers licensed to do business in the State of California, and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better.

7. Indemnity. Foundation agrees to indemnify, save, hold harmless, and at County's request, defend the County, its officers, agents, and employees from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to County in connection with the performance, or failure to perform, by Foundation, its officers, agents, or employees under this Agreement, and from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of Foundation, its officers, agents, or employees under this Agreement.

County agrees to indemnify, save, hold harmless, and at Foundation's request, defend the Foundation Indemnitees from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to Foundation Indemnitees, or any of them, in connection with the performance, or failure to perform, by County, its officers, agents, or employees under this Agreement, and from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of County, its officers, agents, or employees under this Agreement.

If any claim, action or proceeding is made or brought against a party hereto with respect to which indemnity is required hereunder, the indemnitee shall promptly notify the indemnitor and the indemnitor shall assume the investigation and defense thereof, including the employment of counsel and payment of all expenses. Indemnitee shall have the right to employ separate counsel and to participate in the defense of any action or proceeding against indemnitee, but the indemnitor shall not be required to pay the fees or expenses of such separate counsel. The parties expressly agree that the indemnity obligations set forth in this Agreement shall remain in full force and effect during the term of the Agreement, and are conditioned upon the indemnitor's prompt receipt of notice of any claim in the manner provided therein, opportunity to defend the claim solely with counsel of its choice, and cooperation by the indemnitee. The parties further agree that said indemnity obligations shall survive the termination or expiration of this Agreement for any actual or alleged act, omission, negligence, injury or other causes of action or liability that occurred or is alleged to have occurred during the term of this Agreement.

8. Audits. The Foundation shall at any time during normal business hours, and as often as the County may deem necessary, make available to the County for examination all of its records and data with respect to the matters covered by this Agreement. The Foundation shall, upon request by the County, permit the County to audit and inspect all such records and data necessary to ensure the Foundation's compliance with the terms of this Agreement.

9. Non-Assignment. Neither party shall assign, transfer or subcontract this Agreement or any of its respective rights or duties hereunder without the written consent of the other party.

10. Notices. All notices or other communications required or permitted under this Agreement, unless otherwise stated, shall be deemed duly given if in writing and delivered personally, or sent by reputable overnight courier service (with package tracking capability), or first class postage prepaid, addressed as follows:

Foundation:

Dr. Jesus Larralde-Muro
Associate Dean
Lyles College of Engineering
California State University, Fresno
2320 E. San Ramon
Fresno, CA 93740
M/S EE94
Telephone : (559) 278-2500

County:

Mr. Steven White, Director
County of Fresno
Department of Public Works
and Planning
2220 Tulare Street, 6th Floor
Fresno, CA 93721
Telephone: (559) 600-4500

Notices shall be deemed given on the date of delivery. Either party may change its notice address by giving the other party written notice of such change.

11. Conflict of Interest. The Foundation warrants that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement. The Foundation further warrants that neither it nor any of its employees have real property, business interests or income that will be affected by the services performed under this Agreement. The Foundation covenants that no person having any such interest, whether an employee or subcontractor, shall perform the services under this Agreement.

12. Non-Discrimination. The Foundation covenants that it shall not unlawfully discriminate on the basis of any protected class under federal or State law in the provision of the services or with respect to selecting students to be Intern applicants. The County covenants that it shall not unlawfully discriminate against any Intern applicant during the selection or assignment process, or unlawfully discriminate against any Intern during his or her assignment, on the basis of any protected class under federal or State Law. A protected class, includes, but is not necessarily limited to race, color, national origin, ancestry, religion, age, sex, sexual orientation, marital status, and disability.

13. Alternative Dispute Resolution. If a dispute arises out of or relating to this Agreement, or the alleged breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties; otherwise, each party shall bear its own cost of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute. Demand for mediation shall be in writing and delivered to the other party to this Agreement, and shall be made within a reasonable time after the claim, dispute or other matter in question has arisen.

14. Miscellaneous Provisions

- a. Intern Status. The parties agree that the Interns placed with the County and participating in the training and experience as provided in this Agreement are not employees of the County or Department and that their service under the terms of this Agreement is solely for the purpose of gaining practical training and experience while satisfying educational requirements.
- b. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not a signatory to this Agreement except that the Foundation Indemnitees (other than Foundation) shall be deemed third party beneficiaries of this Agreement for purposes of enforcing County's obligations arising under section 7.
- c. Advertising. No party shall use the other's name or logo in any descriptive or promotional literature or communication of any kind without the other's prior written consent.
- d. Assignment. Neither party may assign or delegate this Agreement or any other interest herein or responsibility hereunder without the prior written consent of the other party,
- e. Severability. If any provision of this Agreement is as a matter of law unenforceable, then such provision shall be deemed to be deleted and all other provisions of this Agreement shall remain in full force and effect.
- f. Entire Agreement. This Agreement, together with any exhibits referenced herein and attached hereto, represents the entire understanding of the parties with respect to the subject matter covered. This Agreement supersedes all previous memoranda of understanding and agreements made by and entered into between the parties regarding the subject matter covered. Any other prior understandings, whether oral or written, shall have no force or effect.
- g. Amendments. Any matters of this Agreement may be modified only by a subsequent written amendment, signed by duly authorized representatives of both parties.
- h. Captions. The captions to the sections in this Agreement are included for convenience only and are not intended to and shall not be deemed to modify or explain any of the terms of this Agreement.
- i. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate pages. A copy, or an original, with all signatures appended together shall be deemed a fully executed agreement. Signatures transmitted by facsimile shall be deemed original signatures.
- j. Authority. Each person executing this Agreement on behalf of any party does hereby personally represent and warrant that he or she has the authority to execute this Agreement on behalf of and fully bind such party.

- k. Governing Law / Interpretation. This Agreement shall be interpreted in accordance with California law. The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against either party. The parties further agree that, for purposes of venue, performance under this Agreement shall take place in Fresno County, California.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective as of the date first above mentioned.

FOUNDATION:

California State University
Fresno Foundation

By: Keith Kompasi 5-10-17
Keith Kompasi
Director Foundation Financial Services

By: James E. Marshall 5/10/17
James E. Marshall
Dean of Research and Graduate Studies

**REVIEWED AND RECOMMENDED
FOR APPROVAL**

By: Steven E. White
Steven E. White, Director
Director of Public Works and Planning

APPROVED AS TO LEGAL FORM
Daniel C. Cederborg
County Counsel

By: [Signature]
Deputy

COUNTY OF FRESNO

By: Brian Pacheco
Brian Pacheco, Chairman
Board of Supervisors

ATTEST:
Bernice E. Seidel, Clerk
Board of Supervisors

By: [Signature]
Deputy

**APPROVED AS TO ACCOUNTING
FORM**
Oscar J. Garcia CPA
Auditor-Controller/ Treasurer-Tax
Collector

By: [Signature]
Deputy

FOR ACCOUNTING USE ONLY

Fund: 0010
Subclass 11000
Org. No 4510
Account 6200