

CONSULTANT AGREEMENT

THIS AGREEMENT for Engineering Consultant Services, hereinafter referred to as the "AGREEMENT," is made and entered into this 25th day of April, 2017, between the County of Fresno, a political subdivision of the State of California, hereinafter referred to as "the COUNTY", and Stratus Environmental, Inc., whose address is 3330 Cameron Park Drive, Suite 550, Cameron Park, CA 95682, hereinafter referred to as "the CONSULTANT".

WITNESSETH

WHEREAS, the CONSULTANT has been selected to provide on-call engineering services required for regulatory landfill projects encompassing structural, geological, hydrogeological, geotechnical, surveying and other landfill engineering disciplines as necessary to assist the COUNTY in performing various tasks on an "as-needed" basis, as delineated more thoroughly in Article II of this AGREEMENT (hereinafter referred to as "PROJECT(S)"), as proposed by the COUNTY; and,

WHEREAS, said CONSULTANT has been selected in accordance with the COUNTY'S Ordinance Code Chapter 4.10 on the selection of architects, engineers, and other professionals to provide engineering services necessary for PROJECT(S); and,

WHEREAS, said CONSULTANT represents that it is qualified and willing to perform the professional services required by the COUNTY for PROJECT(S); and,

NOW, THEREFORE, in consideration of the promises and covenants set forth herein, the above named parties agree as follows:

I. GENERAL PROVISIONS

A. The COUNTY hereby contracts with the CONSULTANT as an independent contractor to provide the consultant engineering services required for the PROJECT(S).

B. The work to be performed under the AGREEMENT, on such PROJECT(S) as the CONTRACT ADMINISTRATOR may designate, is more thoroughly described in Article II of this AGREEMENT.

C. The CONTRACT ADMINISTRATOR on behalf of the COUNTY shall be:

Curtis Larkin, Senior Engineer

2220 Tulare Street, 6th Floor, Fresno CA 93721

559-600-4259

clarkin@co.fresno.ca.us

and shall remain so unless the CONSULTANT is otherwise notified in writing by the COUNTY's Director of Public Works and Planning or his/her designee (hereinafter referred to as "the DIRECTOR"); and,

D. The PROJECT MANAGER for the CONSULTANT shall be:

Rob Kull

3330 Cameron Park Drive, Suite 550, Cameron Park, CA 95682

Telephone: 530-672-4017 or 530-651-4200

rkull@stratusinc.net

and shall remain so unless the CONSULTANT requests and DIRECTOR approves, in writing, a change of the CONSULTANT'S PROJECT MANAGER, which approval will not be unreasonably withheld.

E. The CONSULTANT'S staff for their project team shall be as listed in Exhibit A, attached hereto and incorporated herein. Any substitutions of personnel shall be submitted in writing and approved in writing by the CONTRACT ADMINISTRATOR prior to the substitution of personnel, which approval shall not be unreasonably withheld.

F. The CONSULTANT may retain geotechnical specialists, geologists, and other specialized subconsultants, as the CONSULTANT requires, to assist in completing PROJECT(S). All subconsultants used by the CONSULTANT shall be approved in writing by the CONTRACT ADMINISTRATOR before they are retained by the CONSULTANT for PROJECT(S); for which approval shall not be unreasonably withheld. Subconsultants listed in Exhibit B, attached hereto and incorporated herein, shall be considered as approved by the CONTRACT ADMINISTRATOR. Should the CONSULTANT retain such subconsultants in connection with PROJECT(S), compensation to be paid to the CONSULTANT under Article V below shall not be increased, and any additional compensation to be paid to the CONSULTANT for such subconsultant work shall be limited to a maximum of ten percent (10%) of the total costs incurred by the CONSULTANT as a

1 result of the subconsultant's involvement in any PROJECT. Additional fees other than the 10%
2 markup on subconsultant charges shall not be reimbursed.

3 G. The CONSULTANT'S services shall be performed as expeditiously as is consistent with
4 professional skill and the orderly progress of the work, based on schedules for each specific
5 PROJECT mutually agreed upon in advance by the CONTRACT ADMINISTRATOR and the
6 CONSULTANT.

7 H. The CONSULTANT and affiliated subconsultants shall not submit bids, or subbids, for
8 the contract construction phase of PROJECT(S) for which the CONSULTANT provides services
9 hereunder. The CONSULTANT and its subconsultants, and all other service providers, shall not
10 provide any project-related services for, or receive any project-related compensation from any
11 construction contractor, subcontractor or service provider awarded a construction contract for all or
12 any portion of PROJECT(S) for which the CONSULTANT provides services hereunder. The
13 CONSULTANT and its subconsultants, and all other service providers, may provide services for,
14 and receive compensation from a construction contractor, subcontractor or service provider who
15 has been awarded a construction contract for all or any portion of PROJECT(S), provided that any
16 such services which are rendered, and any compensation which is received therefor relates to work
17 outside the scope of this AGREEMENT.

18 I. It is understood that the CONSULTANT shall not assign, sublet, subcontract, or transfer
19 the CONSULTANT'S rights or obligations in this AGREEMENT without the prior express, written
20 consent of the COUNTY. Such consent and approval may only be given by the COUNTY Board of
21 Supervisors, except as otherwise provided under this AGREEMENT.

22 J. Any changes to this AGREEMENT, requested either by the COUNTY or the
23 CONSULTANT, may only be effected if mutually agreed upon in writing by duly authorized
24 representatives of the parties hereto. This AGREEMENT shall not be modified or amended, nor
25 shall any rights of a party hereto be waived, except by such a writing.

26 K. The consideration to be paid the CONSULTANT as provided herein, shall be in
27 compensation for all of the CONSULTANT'S expenses incurred in the performance hereof,
28 including travel and per diem, unless otherwise expressly so provided.

1 II. CONSULTANT SERVICES

2 A. The CONSULTANT shall communicate with the CONTRACT ADMINISTRATOR to
3 verify, and refine the scope of each assigned PROJECT, which will be mutually agreed to by
4 CONSULTANT and CONTRACT ADMINISTRATOR, and the CONSULTANT thereafter shall
5 provide a detailed fee estimate and estimated time schedule for completion of each PROJECT. The
6 CONSULTANT agrees that each professional or other individual performing work on any such
7 PROJECT(S) shall be adequately trained to perform the work and shall possess the proper license,
8 certification or registration as required by law or by accepted standards of the applicable profession.
9 The CONSULTANT agrees to provide the professional services, when expressly authorized in
10 writing by CONTRACT ADMINISTRATOR, that are necessary to complete tasks. PROJECT
11 specific tasks and conditions will be more thoroughly delineated in any request issued pursuant to
12 this contract. The services which the CONSULTANT may be requested to provide include, but may
13 not be limited to:

14 1. Structural, geological, hydrogeological, geotechnical, surveying and support services
15 pertaining to landfills.

16 2. The preparation of Plans, Technical Specifications, and Construction Estimates
17 pertaining to the design of:

18 a. Landfill modules and covers;

19 b. Landfill gas collection and control systems; and

20 c. Groundwater remediation systems.

21 3. Evaluation of monitoring programs.

22 4. Design and implementation of monitoring programs.

23 5. Engineering feasibility studies.

24 6. Corrective action program design and implementation.

25 7. Remediation system(s) efficacy studies.

26 8. Landfill tipping fee studies and implementation.

27 9. Review, revision and preparation of landfill specific regulatory documents including:

28 a. Joint Technical Documents;

- b. Closure, Post-closure and Corrective Action Plans and cost estimates;
- c. Solid Waste Facility Permits;
- d. Authority to Construct;
- e. Permits to Operate; and
- f. Various technical reports.

B. In the preparation of any work product required to complete PROJECT(S) the CONSULTANT shall:

1. Ascertain the requirements for technical reports through meetings with the CONTRACT ADMINISTRATOR and a review of existing information on PROJECT(S).

2. Prepare and submit technical reports to the CONTRACT ADMINISTRATOR for preliminary approval for each assigned PROJECT, in accordance with the appropriate format required by local, state and federal laws, regulations and guidelines.

3. Submit each technical report to the CONTRACT ADMINISTRATOR for transmittal to other appropriate agencies for their review and approval.

4. Revise and resubmit each technical report as necessary until approved by all appropriate agencies.

5. Prepare technical studies, estimates, and other documents in both hard copy and electronic formats approved by the CONTRACT ADMINISTRATOR.

6. When not otherwise specified by the CONTRACT ADMINISTRATOR, provide submittals as delineated herein:

a. Including five (5) compact discs (CD) or digital video discs (DVDs) upon which copies of all electronic files associated with the submittal are copied. COUNTY acknowledges that CONSULTANT shall not be responsible for changes made without CONSULTANT's approval. Each electronic file shall be in a format appropriate to the file or data set, utilizing one or any group of those listed programs:

i. Files consisting primarily of text shall be submitted in Microsoft Word, version 2010 or later;

ii. Files consisting primarily of data sets and/or formulas shall be submitted in

1 Microsoft Excel, version 2010 or later;

2 iii. Drawings and plans shall be submitted in Autocad Civil 3D, version 2016.

3 b. Including ten (10) hard copies of each report, estimate, and/or all other
4 documents and submittals prepared, printed in color to the extent color is used therein.

5 c. Including ten (10) hard copies of each plan drawing, not including wet-stamped
6 final documents, as provided in Section C.

7 7. Verify approved, compatible format and quantity of submittals prior to delivery.

8 C. In the preparation of Design Plans, Technical Specifications and Construction
9 Estimates for PROJECTS, the CONSULTANT shall:

10 1. Ascertain the requirements for PROJECT(S) through meetings with the CONTRACT
11 ADMINISTRATOR and a review of an existing schematic layout of PROJECT(S).

12 2. Ascertain any requirements, unforeseen criteria, or issues for PROJECT(S) that may
13 be unknown to the CONTRACT ADMINISTRATOR, communicate these requirements, criteria, or
14 issues to the CONTRACT ADMINISTRATOR, and include in the scope, as agreed by the
15 CONTRACT ADMINISTRATOR.

16 3. Provide surveying, as necessary to ascertain all information required to prepare any
17 document specified herein for PROJECT(S), unless otherwise directed by CONTRACT
18 ADMINISTRATOR.

19 4. Design PROJECT(S) to conform to the mutually agreed scope and any requirements
20 of other reviewing agencies having jurisdiction over PROJECT(S).

21 5. Design PROJECT(S) to include mitigation measures included in the environmental
22 document.

23 6. Monitor and keep the CONTRACT ADMINISTRATOR informed regarding the impact
24 of design issues on PROJECT budget. Upon the written request of CONTRACT
25 ADMINISTRATOR, the CONSULTANT shall incorporate into the design, such reasonable design
26 and operational changes as the CONTRACT ADMINISTRATOR deems appropriate as a result of
27 the COUNTY'S review processes and impact on each PROJECT budget or estimate.

28 7. Assist in determining all permits that may be required for PROJECT and prepare all

necessary permits for the COUNTY submittal to outside agencies.

8. Work with the CONTRACT ADMINISTRATOR to ensure that the plans, specifications, and estimate meet all COUNTY requirements to be advertised for construction bids.

9. Prepare detailed engineers estimates, bid items, and unit prices quantified/qualified, which shall identify the construction components and requirements of PROJECT(S).

10. If required by CONTRACT ADMINISTRATOR, submit to the COUNTY in the appropriate agency forms, PROJECT background information and recommended testing and inspection lists for materials to be used for each PROJECT; identifying type, quantity, frequency, and schedule of said testing and inspection.

11. Prepare technical specifications setting forth in detail the work to be done, and the materials, workmanship, and equipment required for the construction of PROJECT(S), as necessary to provide the COUNTY complete and functional PROJECT(S) for its intended purpose within the requirements of this AGREEMENT.

12. Submit to the CONTRACT ADMINISTRATOR the projected and final construction estimate. Verify through written justification the reasonableness of the estimated construction period for construction contract bidding purposes as provided by the CONTRACT ADMINISTRATOR and identify long delivery times of materials and equipment which will impact the duration of the construction contract.

13. Respond to CONTRACT ADMINISTRATOR regarding Requests for Clarification during the bidding process and submit to the CONTRACT ADMINISTRATOR for review and approval of any addenda deemed necessary. Addenda, if any, shall be submitted no later than seven (7) working days prior to the scheduled bid opening, except as otherwise directed by the CONTRACT ADMINISTRATOR.

14. Assist the CONTRACT ADMINISTRATOR in evaluating the bids received.

15. Delete or otherwise change portions of the project design at the direction of the CONTRACT ADMINISTRATOR if the lowest bid proposal for the construction contract exceeds the COUNTY approved engineer's estimate by 10% or more, and if the COUNTY rejects all bids. In such event, the CONSULTANT shall revise the plans and specifications to comply with such

1 modifications and also shall assist the COUNTY in obtaining new bid proposals from contractors, all
2 at no additional cost to the COUNTY. Such modifications performed by the CONSULTANT shall
3 be completed on a time schedule commensurate with the scope of the changes and as set forth by
4 the CONTRACT ADMINISTRATOR.

5 16. Submit to the COUNTY ten (10) copies of the 30%, 60% and 90% plans (22" X 34"
6 format), specifications and estimates for review. Submit progress prints and final originals of the
7 plans, specifications, and estimates. Prior to submission of plans, the CONSULTANT shall request
8 from the COUNTY examples of acceptable drafting format and reproducible standards. Verification
9 of compatible format will be required prior to final file delivery. The CONTRACT ADMINISTRATOR,
10 at its discretion, may reject a submittal that is determined insufficient. Submittals shall, at a
11 minimum, consist of the following:

12 a. 30% plans, specifications and estimates shall include copies of utility locations,
13 centerline stationing, proposed and existing right-of-way, typical sections and structural sections.

14 b. 60% plans, specifications and estimates shall include 30% plan information and
15 in addition, preliminary cross sections and earthwork calculations at 25' or 50' intervals, adequate
16 information to allow construction survey staking, permits, preliminary profile grade, an updated
17 engineer's estimate, and shall address comments and include necessary revisions as identified by
18 the COUNTY in the 30% review.

19 c. 90% plans, specifications and estimates shall include 60% plan information and
20 in addition, updated cross sections and earthwork, profile grade, technical specifications, typical
21 sections and PROJECT details, and shall address comments and include necessary revisions as
22 identified by the COUNTY in the 60% review.

23 d. Final original plans, specifications and estimates to be delivered to the COUNTY
24 shall include:

25 i. One (1) original reproducible plan set on 22" by 34" sheets of 4 mil thick
26 double matte film.

27 ii. One (1) reproducible copy of cross sections on 22" by 34" sheets of 4 mil
28 thick double matte film.

1 iii. One (1) CD or DVD with final plans, cross sections and slope stake
2 information, design calculations, quantity calculations, and other design information as applicable to
3 the PROJECT.

4 iv. One (1) stamped and wet signed paper copy and one (1) CD or DVD with
5 final specifications and estimates.

6 17. Plan sheets, cross sections, earthwork calculations and slope stake information shall
7 be in Autocad Civil 3D, version 2016. Slope stake information shall include 50-foot intervals for
8 tangent sections and 25-foot intervals for curved sections. Specifications shall be in Microsoft
9 Word, version 2010 or later and on 8 ½" by 11" pages. Final engineer's estimates shall be in
10 Microsoft Excel, version 2010 or later and on 8 ½" by 11" pages. Estimates shall specify specialty
11 and/or final pay items as described in the 2006 Caltrans State Standard Specifications. Verification
12 of compatible format will be required prior to final file delivery.

13 18. The COUNTY will package the CONSULTANT'S documents with those other
14 documents that together will comprise the COUNTY'S construction contract and bid specifications.

15 19. Deliver to the CONTRACT ADMINISTRATOR three (3) weeks prior to the advertising
16 date (which will be determined by CONTRACT ADMINISTRATOR) the final drawings and
17 specifications for the COUNTY'S printing and distribution of bid sets to interested construction
18 contractors. The original drawings and specifications index sheet shall be sealed with the
19 CONSULTANT'S and subconsultant's professional licensure stamp clearly indicating license
20 numbers and license renewal dates and shall be signed in accordance with the California Business
21 and Professions Code.

22 D. During the performance of Construction Observation Services, the CONSULTANT shall:

23 1. Participate in the preconstruction conference.
24 2. When requested by CONTRACT ADMINISTRATOR, attend meetings with the
25 COUNTY, federal, state and/or local representatives to discuss and review the technical report.
26 The CONSULTANT shall prepare brief minutes of all meetings attended and shall submit those
27 minutes to the CONTRACT ADMINISTRATOR within seven (7) calendar days.

28 3. Make recommendations to the COUNTY on all claims of the COUNTY or the

1 construction contractor and all other matters relating to the execution and progress of the work,
2 including interpretation of the CONSULTANT'S contract documents.

3 4. Within seven (7) working days of the CONTRACT ADMINISTRATOR'S request,
4 review and make recommendations for samples, schedules, shop drawings, and other submissions
5 for general conformance with the design concept of PROJECT(S) and for general compliance with
6 the plans and specifications and information given by the CONSULTANT'S contract documents.

7 5. Within two (2) working days, respond to requests from the CONTRACT
8 ADMINISTRATOR for information needed from the CONSULTANT in order to clarify construction
9 plans and specifications and to review the construction contractor's cost estimates for all change
10 orders.

11 6. Recommend and assist in the preparation of such change orders as deemed
12 necessary with supporting documentation, calculations and estimate, for review and issuance of
13 change orders by the COUNTY Construction Engineer to obtain appropriate agency acceptance
14 and approval.

15 7. Assist the COUNTY, at the DIRECTOR's express, written authorization, with any
16 claim resolution process involving the construction contractor and the COUNTY as specified
17 hereunder, including serving as a witness in connection with any public hearings or legal
18 proceeding, and also including dispute resolutions required by law or hereunder. The parties
19 recognize that this clause is provided as a means of expediting resolution of claims among the
20 construction contractor, the COUNTY, and the CONSULTANT. However, it is understood the
21 construction contractor is not an intended third party beneficiary of this clause. Compensation for
22 these services shall be computed and invoiced at hourly rates listed in Exhibit C hereto. The
23 CONSULTANT shall identify rates for expert witness services, subject to review and approval or
24 disapproval by the CONTRACT ADMINISTRATOR, in Exhibit C. Any proposed fee schedule (i.e.:
25 Exhibit C) which fails to identify rates for expert witness services by CONSULTANT will be rejected
26 by CONTRACT ADMINISTRATOR. Assistance by CONSULTANT as described in this Article shall
27 be subject to the following provisions:

28 a. The DIRECTOR may believe the CONSULTANT'S work under this

1 AGREEMENT may have included negligent errors or omissions; or that the CONSULTANT may
2 otherwise have failed to comply with the provisions of this AGREEMENT or with the provisions
3 associated with a particular PROJECT; or that claims may have resulted from or have been
4 exacerbated by negligent acts or omissions of CONSULTANT. Upon notice by the DIRECTOR, the
5 CONSULTANT'S payments for such services shall be held in suspense by the COUNTY until a final
6 determination has been made of the proportion that the CONSULTANT'S fault bears to the fault of
7 all other parties concerned.

8 b. Such amounts held in suspense shall not be paid to the CONSULTANT, pending
9 the final determination as to the CONSULTANT'S proportional fault. However, the appropriate
10 percentage of such amount held in suspense shall be paid to the CONSULTANT, once a final
11 determination has been made, and the CONSULTANT thereafter submits a proper invoice to the
12 COUNTY. Payment shall be issued in accordance with the procedure outlined in Article V, Section
13 B, Paragraph 2.

14 8. At intervals appropriate to the stage of construction and consistent with the mutually
15 agreed scope, or as otherwise deemed necessary by the CONTRACT ADMINISTRATOR, visit the
16 site of PROJECT(S) as necessary to become familiar generally with the progress and quality of the
17 work and to determine whether the work is proceeding in general accordance with the contract
18 documents. The CONSULTANT shall not be required to make exhaustive or continuous onsite
19 inspections but shall keep the COUNTY Construction Engineer or his/her designee fully advised
20 and informed of all critical path issues of which the CONSULTANT becomes aware during the
21 course of construction. The CONSULTANT shall not be responsible for the construction
22 contractor's failure to carry out the construction work in accordance with the contract documents.
23 However, the CONSULTANT shall immediately advise the CONTRACT ADMINISTRATOR of any
24 known or observed deviation from the contract documents.

25 9. Not have control over or charge of, and shall not be responsible for construction
26 means, methods, techniques, sequence, or procedure, or for the safety precautions, programs, or
27 equipment in use in connection with the work, since these are solely the construction contractor's
28 responsibility under the contract for construction.

10. Keep the COUNTY informed, based on the CONSULTANT'S visits to PROJECT(S), through written reports as to the progress of the work.

11. Advise the COUNTY of defects and deficiencies observed in the work of the construction contractor, and may recommend that the DIRECTOR reject work as failing to conform to the contract documents.

12. Consistent with the mutually agreed scope, conduct site visits and field observations to facilitate recommendations by the CONSULTANT regarding:

- a. dates of substantial completion.
- b. dates of final completion.
- c. the DIRECTOR's acceptance of the work.
- d. filing of the Notice of Completion and Issuance of Final Certificate for payment.
- e. other issues which may require site visits, as requested by the CONTRACT

ADMINISTRATOR.

E. Control of Construction Project Site

1. The COUNTY'S construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction projects; including safety of all persons and property. This requirement shall be made to apply continuously during projects and shall not be limited to normal working hours. The CONSULTANT shall not have control over or charge of, and shall not be responsible for, project means, methods, techniques, sequences or procedures, as these are solely the responsibility of the construction contractor. The CONSULTANT shall not have the authority to stop or reject the work of the construction contractor.

III. OBLIGATIONS OF THE COUNTY

The COUNTY will:

A. Compensate the CONSULTANT as provided in this AGREEMENT.

B. Furnish available reports, plans, and specifications related to PROJECT(S), and provide readily available documents requested by CONSULTANT necessary to perform tasks associated with completion of PROJECT(S).

C. Examine documents submitted and render timely decisions pertaining thereto.

1 D. Facilitate coordination between the construction contractor and the CONSULTANT,
2 including scheduling of the preconstruction conference and testing conforming to ASTM
3 International Standards on soil materials to be performed by the CONSULTANT.

4 E. Participate in meetings with the CONSULTANT as required.

5 F. Provide administration of the construction contract.

6 G. Identify the COUNTY'S Construction Engineer, whom the CONSULTANT shall keep fully
7 advised and informed of all critical path issues of which the CONSULTANT becomes aware during
8 the course of PROJECT construction.

9 IV. TERM, PERFORMANCE PERIOD AND TERMINATION

10 A. The term of this AGREEMENT shall be for a period of three (3) years, commencing upon
11 execution by the COUNTY through and including the third anniversary of execution. This
12 AGREEMENT may be extended for two (2) additional twelve (12) month periods upon written
13 approval of the COUNTY and the CONSULTANT, no later than thirty (30) days prior to the first day
14 of the next twelve (12) month extension period. The DIRECTOR or his or her designee is
15 authorized to execute such written approval on behalf of the COUNTY, based on CONSULTANT'S
16 satisfactory performance.

17 B. The terms of this AGREEMENT, and the services to be provided thereunder, are
18 contingent on the approval of funds by the appropriating government agency. Should sufficient
19 funds not be allocated, the services provided may be modified, or this AGREEMENT terminated at
20 any time by giving the CONSULTANT thirty (30) calendar days advance written notice.

21 C. The CONSULTANT shall complete all services required under this AGREEMENT prior
22 to the expiration thereof, unless extended or earlier terminated, as provided herein.

23 D. The CONSULTANT shall not perform any work under this AGREEMENT without written
24 authorization to proceed. The CONSULTANT shall commence work promptly after receipt of such
25 authorization, as issued by the CONTRACT ADMINISTRATOR.

26 E. The CONSULTANT shall provide services as required in accordance with the schedule
27 established upon authorization of each PROJECT, and in a timely manner to avoid unnecessary
28 delay to the PROJECT'S construction.

1 F. The CONSULTANT is advised and hereby acknowledges its understanding that any
2 recommendation for award is not binding on the COUNTY until the AGREEMENT is fully executed
3 following its approval by the COUNTY'S Board of Supervisors.

4 G. This AGREEMENT may be terminated without cause at any time by the COUNTY upon
5 thirty (30) calendar days written notice. If the COUNTY terminates this AGREEMENT, the
6 CONSULTANT shall be compensated for services satisfactorily completed to the date of
7 termination based upon the compensation rates and subject to the maximum amounts payable
8 agreed to in Article V, together with such additional services satisfactorily performed after
9 termination which are expressly authorized by the COUNTY to conclude the work performed to date
10 of termination.

11 H. If the CONSULTANT purports to terminate AGREEMENT, or otherwise refuses to
12 perform pursuant to AGREEMENT, for reasons other than material breach by the COUNTY, the
13 CONSULTANT shall reimburse the COUNTY, up to a maximum of \$10,000 for the actual expense
14 of issuing a Request For Proposal (RFP), engaging a new consultant, and the new consultant's cost
15 in becoming familiar with the previous CONSULTANT'S work. The COUNTY'S entitlement to such
16 reimbursement shall in no way be construed as a limitation on other damages that may be
17 recoverable by the COUNTY as a result of the CONSULTANT'S termination, in breach of its
18 obligations hereunder.

19 I. The COUNTY may immediately suspend or terminate this AGREEMENT in whole or in
20 part, where in the determination of the COUNTY there is:

- 21 1. An illegal or improper use of funds;
- 22 2. A failure to comply with any material term of this AGREEMENT;
- 23 3. A substantially incorrect or incomplete report submitted to the COUNTY;
- 24 4. Service not performed consistent with the generally accepted standard of care.

25 J. In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of
26 any breach of this AGREEMENT or any default which may then exist on the part of the
27 CONSULTANT, nor shall such payment in any way impair or prejudice any remedy available to the
28 COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of the

CONSULTANT the repayment to the COUNTY of any funds disbursed to the CONSULTANT under this AGREEMENT, which, in the judgment of the COUNTY and as determined in accordance with the procedures of Article VIII, "ERRORS OR OMISSIONS CLAIMS AND DISPUTES", were not expended in accordance with the terms of this AGREEMENT. The CONSULTANT shall promptly refund any such funds upon demand.

V. ALLOWABLE COSTS AND PAYMENTS

A. Fees:

1. Notwithstanding any other provisions in AGREEMENT, the Total Fee for the services required under AGREEMENT, shall not exceed the total sum of Five Hundred Thousand and No/100 Dollars (\$500,000.00) over the entire term of AGREEMENT. Total fees paid will be dependent upon the actual services authorized and performed under this AGREEMENT.

Compensation for the services rendered shall be computed at the hourly and cost rates shown in Exhibit C, attached hereto and incorporated herein, subject to any adjustments that may be approved in accordance with Article V, Section A, Paragraph 3.

2. The hourly and cost rates listed herein for services rendered by the CONSULTANT and subconsultants shall remain in effect for the entire duration of AGREEMENT unless adjusted in accordance with the provisions of Article V, Section A, Paragraphs 3, 5, or 6.

3. The hourly rates paid for services performed by the CONSULTANT and by subconsultants of the CONSULTANT and the rates for expenses incidental to the CONSULTANT'S and subconsultant's performance of services may be adjusted no more than once annually for inflation, in accordance with the following provisions:

a. The CONSULTANT may request new labor rates and new rates for expenses incidental to the CONSULTANT'S and subconsultants' performance of services subject to written approval of the CONTRACT ADMINISTRATOR in accordance with the provisions of this Section.

b. The CONSULTANT shall initiate the rate adjustment process by submitting to the CONTRACT ADMINISTRATOR a proposed adjusted fee schedule. The proposed adjusted fee schedule shall include proposed hourly rates for all categories of the CONSULTANT'S and subconsultants' wage classifications and proposed rates for incidental expenses listed in Exhibit C.

1 c. The proposed adjusted fee schedule shall not take effect unless approved in
2 writing by CONTRACT ADMINISTRATOR. The CONSULTANT acknowledges its understanding
3 that approval by the CONTRACT ADMINISTRATOR of any upward adjustment in the hourly and
4 cost rates shall not provide a basis for any increase in the total fee of as set forth in Article V,
5 Section A, Paragraph 1.

6 4. Expenses incidental to the CONSULTANT'S and subconsultant's performance of
7 services under Article II of AGREEMENT shall be charged at the rates listed in Exhibit C, subject to
8 any adjustments that may be approved in accordance with Article V, Section A, Paragraphs 3, 5, or
9 6. Unless incorporated in an adjusted fee schedule approved by the CONTRACT
10 ADMINISTRATOR, all other expenses incidental to the CONSULTANT'S and subconsultant's
11 performance of the services under Article II of AGREEMENT that are not listed in Exhibit C shall be
12 borne by the CONSULTANT.

13 5. In the event that the CONTRACT ADMINISTRATOR approves the CONSULTANT to
14 retain additional subconsultants not listed in Exhibit B, in accordance with Article I, Section B, hourly
15 rates paid for services performed by such additional subconsultants of the CONSULTANT and the
16 rates for expenses incidental to subconsultants performance of services may be adjusted no more
17 than once annually for inflation, in accordance with Article V, Section A, Paragraph 3. The first
18 annual adjustment of hourly and incidental expense rates for such additional subconsultants shall
19 not be approved prior to one year after CONTRACT ADMINISTRATOR'S approval of the retention
20 of such additional subconsultant(s) by the CONSULTANT.

21 6. Notwithstanding any other provisions in AGREEMENT, the CONTRACT
22 ADMINISTRATOR may, at any time, authorize in writing the revision of the CONSULTANT'S or
23 subconsultant's charge rates for incidental expenses to include additional categories of such
24 expenses if, in the opinion of CONTRACT ADMINISTRATOR, such revision is necessary to
25 facilitate the CONSULTANT'S performance of PROJECT(S).

26 B. Payments:

27 1. Progress payments will be made by the COUNTY upon receipt of the
28 CONSULTANT'S monthly invoices and approval by the COUNTY thereof based on CONTRACT

ADMINISTRATOR'S evaluation of the completion of the respective components of the assigned PROJECT. Invoices shall clearly identify the PROJECT, Phase, and Task of the work, and shall be submitted with the documentation identified in Article V, Section B, Paragraph 5. Invoices shall be forwarded electronically to: landfill-oncall@co.fresno.ca.us.

2. Upon receipt of an invoice containing all requisite information, it will take approximately ten (10) working days for the COUNTY Department of Public Works & Planning to review, approve, and submit it to the COUNTY Auditor-Controller / Treasurer-Tax Collector. Unsatisfactory or inaccurate invoices will be returned to the CONSULTANT for correction and resubmittal. Payment, less retention, will be issued to CONSULTANT within approximately forty-five (45) calendar days of the date the Auditor-Controller/Treasurer-Tax Collector receives the approved invoice.

3. The COUNTY may withhold a five percent (5%) retention from earned compensation of the CONSULTANT, at the discretion of the CONTRACT ADMINISTRATOR. If the CONTRACT ADMINISTRATOR determines that retention will be withheld for a PROJECT, the CONTRACT ADMINISTRATOR will so state in writing prior to commencement of PROJECT by CONSULTANT and will identify PROJECT-specific prerequisites, such as successful completion of a PROJECT phase, for example, for the release of retentions. Such retention shall be in addition to any amounts withheld under Article II.

4. An unresolved dispute over a possible error or omission may cause payment of the CONSULTANT fees in the disputed amount to be withheld by the COUNTY.

5. Concurrently with the invoices, the CONSULTANT shall certify (through copies of issued checks, receipts, or other COUNTY pre-approved documentation) that complete payment, less a five percent (5%) retention, if required for PROJECT as specified in Paragraph 3, has been made to all subconsultants as provided herein for all previous invoices paid by the COUNTY. However, the parties do not intend that the foregoing create in any subconsultants or sub-contractor a third party beneficiary status or any third party beneficiary rights, and expressly disclaim any such status or rights.

6. Final invoices, and separate invoices for retentions if applicable, shall be submitted

1 to the COUNTY no later than thirty (30) days after the phase is completed. Payment for retentions
2 will be made in accordance with the specific provisions therefor established for the PROJECT by
3 the CONTRACT ADMINISTRATOR, in accordance with the provisions of Paragraph 3.

4 7. In the event the CONTRACT ADMINISTRATOR reduces the scope of the
5 CONSULTANT'S work under AGREEMENT for a specific PROJECT (or discontinues a specific
6 PROJECT), whether due to a deficiency in the appropriation of anticipated funding or otherwise, the
7 CONSULTANT will be compensated on a pro rata basis for actual work completed in accordance
8 with the terms of AGREEMENT.

9 VI. COMPENSATION RECORDS:

10 The CONSULTANT shall keep complete records showing the hours and description of
11 activities performed by each person who works on PROJECT(S) and all associated costs or
12 charges applicable to work covered by the Total Fee. The CONSULTANT will be responsible for all
13 subconsultants keeping similar records. At the request of the CONTRACT ADMINISTRATOR, such
14 records shall be made available to the COUNTY, or shall be summarized on invoices submitted in
15 accordance with Article V, Section B, Paragraph 1.

16 VII. AUDITS, ACCOUNTING AND INSPECTIONS ACCESS

17 A. The CONSULTANT shall, at any time during regular business hours and as often as the
18 COUNTY may deem necessary, make available for examination by State authorities or the
19 COUNTY Auditor-Controller/Treasurer-Tax Collector, or their authorized representatives, all of the
20 CONSULTANT'S records and data with respect to matters covered by this AGREEMENT. The
21 CONSULTANT shall permit the COUNTY'S authorities to audit and inspect all invoices, materials,
22 payrolls, records of personnel, conditions of employment, and other data relating to matters covered
23 by this AGREEMENT.

24 B. The CONSULTANT shall be subject to the examination and audit of the Auditor General
25 for a period of three (3) years after final payment under AGREEMENT (Government Code Section
26 8546.7).

VIII. ERRORS OR OMISSIONS CLAIMS AND DISPUTES

A. Definitions:

1. A "Consultant" is a duly licensed Architect or Engineer, or other provider of professional services, acting as a business entity (owner, partnership, corporation, joint venture or other business association) in accordance with the terms of this AGREEMENT.

2. A "Claim" is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of contract terms, payment of money, extension of time, change orders, or other relief with respect to the terms of the contract. The term "Claim" also includes other disputes and matters in question between the COUNTY and the CONSULTANT arising out of or relating to the contract. Claims must be made by written notice. The provisions of Government Code section 901, et seq., shall apply to every claim made to the COUNTY. The responsibility to substantiate claims shall rest with the party making the claim. The term "Claim" also includes any allegation of a negligent act, error or omission by the CONSULTANT in the performance of PROJECT(S) under AGREEMENT.

B. In the spirit of cooperation between the COUNTY and the CONSULTANT, the following procedures are established in the event of any claim or dispute alleging a negligent act, error or omission, of the CONSULTANT.

1. Claims, disputes or other matters in question between the parties, arising out of or relating to this AGREEMENT, shall not be subject to arbitration, but shall be subject to the following procedures.

2. The COUNTY and the CONSULTANT shall meet and confer and attempt to reach agreement on any dispute, including what damages have occurred, the measure of damages and what proportion of damages, if any, shall be paid by either party. The parties agree to consult and consider the use of mediation or other form of dispute resolution prior to resorting to litigation.

3. If the COUNTY and the CONSULTANT cannot reach agreement under Paragraph 2, the disputed issues may, upon concurrence by all parties, be submitted to a panel of three (3) members for a recommended resolution. The CONSULTANT and the COUNTY shall each select one (1) member of the panel, and the third member shall be selected by the other two panel

1 members. The discovery rights provided by California Code of Civil Procedure for civil proceedings
2 shall be available and enforceable to resolve the disputed issues. Either party requesting this
3 dispute resolution process shall, when invoking the rights to this panel, give to the other party a
4 notice describing the claims, disputes and other matters in question. Prior to twenty (20) working
5 days before the initial meeting of the panel, both parties shall submit all documents such party
6 intends to rely upon to resolve such dispute. If it is determined by the panel that any party has
7 relied on such documentation, but has failed to previously submit such documentation on a timely
8 basis to the other party, the other party shall be entitled to a 20-working-day continuance of such
9 initial meeting of the panel. The decision by the panel is not a condition precedent to arbitration,
10 mediation or litigation.

11 4. Upon receipt of the panel's recommended resolution of the disputed issue(s), the
12 COUNTY and the CONSULTANT shall again meet and confer and attempt to reach agreement. If
13 the parties still are unable to reach agreement, each party shall have recourse to all appropriate
14 legal and equitable remedies.

15 C. The procedures to be followed in the resolution of claims and disputes may be modified
16 any time by mutual agreement of the parties hereto.

17 D. The CONSULTANT shall continue to perform its obligations under this AGREEMENT
18 pending resolution of any dispute, and the COUNTY shall continue to make payments of all
19 undisputed amounts due under this AGREEMENT.

20 E. When a claim by either party has been made alleging the CONSULTANT'S negligent
21 error, act, or omission, the COUNTY and the CONSULTANT shall meet and confer within twenty-
22 one (21) working days after the written notice of the claim has been provided.

23 F. The CONSULTANT, the CONSULTANT'S subconsultants of any tier, subcontractors of
24 any tier, suppliers and construction lenders shall all be bound by the dispute resolution provisions of
25 this AGREEMENT, and immediately upon demand of the COUNTY or the CONSULTANT, shall
26 participate in and shall become parties to the dispute resolution process, provided they have signed
27 any document that incorporates or refers to the dispute resolution provisions of this AGREEMENT.
28 Failure, whether intended or inadvertent, of the CONSULTANT to ensure that such nonparties have

signed such a document shall ensure only to the CONSULTANT'S detriment, if any there be. The COUNTY shall not suffer a detriment by the CONSULTANT'S action or inaction in this regard. If such a party after due notice fails to appear at and participate in the dispute resolution proceedings, the panel established in accordance with the provisions of Section B, Paragraph 3 of this Article VIII, shall make a decision based on evidence introduced by the party or parties who do participate.

IX. CONSULTANT'S OBLIGATIONS RELATING TO CONSTRUCTION CLAIMS

A. To the extent that review of any construction claim is encompassed by the CONSULTANT'S scope of work as determined by the COUNTY, the CONSULTANT will review and analyze construction contract claims and recommend resolution of them as soon as possible following receipt of demand by the COUNTY. CONSULTANT shall be compensated in accordance with Article V.

B. Within a reasonable time after receipt of a claim, the CONSULTANT shall provide a written analysis of the claim to the COUNTY, signed by the CONSULTANT and any affected subconsultants. The written analysis shall include the CONSULTANT'S professional opinion of the responsibility for payment of the claim, with supporting facts and documentation. A copy of the written analysis shall be provided to the respective insurance adjusters for the CONSULTANT and any affected subconsultant.

C. Upon receipt of a claim, the CONSULTANT may also take one (1) or more of the following actions, within ten (10) days of receipt of a claim:

1. Request additional supporting data from the claimant, requiring that such data be supplied within ten (10) days of the request.

2. Submit a schedule to the parties indicating when the CONSULTANT expects to respond to the claim, which schedule shall not exceed thirty (30) days from the CONSULTANT'S original receipt of the claim.

3. Recommend rejection of the claim in whole or in part, stating the reasons for such rejection.

4. Recommend approval of the claim by the other party.

5. Suggest a compromise.

1 D. In every case, the CONSULTANT shall provide its recommended resolution of a claim
2 shall not exceed thirty (30) days from the original receipt of claim, unless the CONSULTANT
3 obtains the COUNTY'S prior written approval.

4 X. INDEPENDENT CONTRACTOR

5 A. In performance of the work, duties, and obligations assumed by the CONSULTANT
6 under this AGREEMENT, it is mutually understood and agreed that the CONSULTANT, including
7 any and all of the CONSULTANT'S officers, agents and employees, will at all times be acting and
8 performing as an independent contractor, and shall act in an independent capacity and not as an
9 officer, agent, servant, employee, joint venturer, partner or associate of the COUNTY. Furthermore,
10 the COUNTY shall have no right to control or supervise or direct the manner or method by which
11 the CONSULTANT shall perform its work and function. However, the COUNTY shall retain the right
12 to administer this AGREEMENT so as to verify that the CONSULTANT is performing its obligations
13 in accordance with the terms and conditions thereof. The CONSULTANT and the COUNTY shall
14 comply with all applicable provisions of law and the rules and regulations, if any, of governmental
15 authorities having jurisdiction over matters the subject thereof.

16 B. Because of its status as an independent contractor, the CONSULTANT shall have
17 absolutely no right to employment rights and benefits available to the COUNTY employees. The
18 CONSULTANT shall be solely liable and responsible for providing to, or on behalf of its employees
19 all legally required employee benefits. In addition, the CONSULTANT shall be solely responsible
20 and save the COUNTY harmless from all matters relating to payment of the CONSULTANT'S
21 employees, including compliance with Social Security, withholding, and all other regulations
22 governing such matters. It is acknowledged that during the term of this AGREEMENT the
23 CONSULTANT may be providing services to others unrelated to the COUNTY or to this
24 AGREEMENT.

25 XI. LEGAL AUTHORITY

26 A. This AGREEMENT shall be binding upon the COUNTY, the CONSULTANT, and their
27 respective successors in interest, legal representatives, executors, administrators, and assigns with
28 respect to all covenants as set forth herein.

1 B. The CONSULTANT shall comply with all applicable federal, state, and local laws,
2 ordinances, regulations, and Fresno County Charter Provisions in effect at the time of the
3 CONSULTANT'S performance of the professional services to be provided hereunder.

4 C. Any controversy or claim arising out of or relating to this AGREEMENT which cannot be
5 amicably settled without court action shall be litigated either in a state court for Fresno County,
6 California, or in the U.S. District Court for the Eastern District of California, located in Fresno
7 County.

8 D. The rights and obligations of the parties and all interpretations and performance of this
9 AGREEMENT shall be governed in all respects by the laws of the State of California.

10 E. In the event that the CONSULTANT is operating as a Corporation, each individual
11 executing this AGREEMENT on behalf of the CONSULTANT hereby covenants, warrants, and
12 represents:

13 1. That he or she is duly authorized to execute and deliver this AGREEMENT on behalf
14 of such corporation in accordance with a duly adopted resolution of the corporation's board of
15 directors and in accordance with such corporation's articles of incorporation or charter and bylaws.

16 2. That this AGREEMENT is binding upon such corporation.

17 3. That the CONSULTANT is a duly organized and legally existing corporation in good
18 standing in the State of California.

19 F. The CONSULTANT shall comply with the provisions of the County of Fresno
20 Department of Public Works and Planning Conflict of Interest Code, attached hereto as Exhibit D
21 and incorporated herein. Such compliance shall include the filing of annual statements pursuant to
22 the regulations of the State Fair Political Practices Commission.

23 XII. HOLD HARMLESS

24 CONSULTANT shall indemnify, save, hold harmless, and at the COUNTY'S request, defend
25 the COUNTY, its officers, agents, and employees from any and all costs and expenses, damages,
26 liabilities, claims, and losses occurring or resulting to the COUNTY in connection with the performance,
27 or failure to perform, by the CONSULTANT, its officers, agents, or employees under this Agreement,
28 and from any and all costs and expenses, damages, liabilities, claims, and losses occurring or

1 resulting to any person, firm, or corporation who may be injured or damaged by the negligent
2 performance, or failure to perform, of CONTRACTOR, its officers, agents, or employees under this
3 Agreement.

4 XIII. INSURANCE

5 A. Without limiting the COUNTY'S right to obtain indemnification from the CONSULTANT
6 or any third parties, the CONSULTANT, at its sole expense, shall maintain in full force and effect,
7 the following insurance policies prior to commencement of any work for the COUNTY and
8 throughout the entire term of this AGREEMENT (with the exception of Professional Liability
9 Insurance, which CONTRACTOR shall maintain in full force and effect for the additional period of
10 time required by Paragraph 4).

11 1. Commercial General Liability Insurance with limits of One Million Dollars
12 **(\$1,000,000.00)** per occurrence and an annual aggregate of Two Million Dollars **(\$2,000,000.00)**.
13 This policy shall be issued on a per occurrence basis. The COUNTY may require specific
14 coverages including completed operations, products liability, contractual liability, Explosion-
15 Collapse-Underground, fire legal liability or any other liability insurance deemed necessary because
16 of the nature of this AGREEMENT.

17 2. Automobile Liability Insurance with limits for bodily injury of Two Hundred Fifty
18 Thousand Dollars **(\$250,000.00)** per person, Five Hundred Thousand Dollars **(\$500,000.00)** per
19 accident and for property damages of Fifty Thousand Dollars **(\$50,000.00)**, or such coverage with a
20 combined single limit of Five Hundred Thousand Dollars **(\$500,000.00)**. Coverage should include
21 owned and non-owned vehicles used in connection with this AGREEMENT.

22 3. Worker's Compensation insurance policy as required by the California Labor Code.

23 4. Professional Liability Insurance:

24 a. If the CONSULTANT employs licensed professional staff in providing services,
25 Professional Liability Insurance with limits of One Million Dollars **(\$1,000,000.00)** per claim, Three
26 Million Dollars **(\$3,000,000.00)** annual aggregate.

27 b. The Professional Liability Insurance shall be kept in full force and effect for a
28 period of three (3) years from the date of substantial completion of the CONSULTANT's work as

1 determined by the COUNTY.

2 B. The CONSULTANT shall obtain endorsements to the Commercial General Liability
3 insurance naming the COUNTY, its officers, agents, and employees, individually and collectively, as
4 additional insured, but only insofar as the operations under the AGREEMENT are concerned. Such
5 coverage for additional insured shall apply as primary insurance and any other insurance, or
6 self-insurance, maintained by the COUNTY, its officers, agents and employees shall be excess only
7 and not contributing with insurance provided under the CONSULTANT'S policies herein. The
8 COUNTY shall be given at least thirty (30) days advance written notice of any cancellation,
9 expiration, reduction or other material change in coverage with respect to any of the aforesaid
10 policies.

11 C. Prior to commencing any such work under the AGREEMENT, the CONSULTANT shall
12 provide to the COUNTY certificates of insurance and endorsements for all of the required policies
13 as specified above, stating that all such insurance coverage has been obtained and is in full force;
14 that the COUNTY, its officers, agents and employees will not be responsible for any premiums on
15 the policies; that such Commercial General Liability insurance names the COUNTY, its officers,
16 agents and employees, individually and collectively, as additional insured, but only insofar as the
17 operations under the AGREEMENT are concerned; that such coverage for additional insured shall
18 apply as primary insurance and any other insurance, or self-insurance, maintained by the COUNTY,
19 its officers, agents and employees, shall be excess only and not contributing with insurance
20 provided under the CONSULTANT'S policies herein; and that this insurance shall not be cancelled
21 or changed without a minimum of thirty (30) days advance, written notice given to the COUNTY.
22 The certificates shall be sent to the CONTRACT ADMINISTRATOR at Department of Public Works
23 and Planning, Design Division, 2220 Tulare Street, Sixth Floor, Fresno, CA 93721.

24 D. In the event CONSULTANT fails to keep in effect at all times insurance coverage as
25 herein provided, the COUNTY may, in addition to other remedies it may have, terminate the
26 AGREEMENT.

27 E. All policies shall be issued by licensed insurers that are admitted or authorized by the
28 California Department of Insurance, and all such insurance shall be purchased from companies

possessing a current A.M. Best, Inc. rating of A FSC VIII or better.

XIV. OWNERSHIP OF DOCUMENTS

A. The CONSULTANT understands and agrees that the COUNTY shall retain full ownership rights of the drawings and work-product of the CONSULTANT to the fullest extent permitted by law. In this regard, the CONSULTANT acknowledges and agrees that the CONSULTANT'S services are on behalf of the COUNTY and are "works made for hire," as that term is defined by copyright law, by the COUNTY; that the drawings and work-product to be prepared by the CONSULTANT are for the sole and exclusive use of the COUNTY and shall be the sole property of the COUNTY and its assigns, and the COUNTY and its assigns shall be the sole owner of all patents, copyrights, trademarks, trade secrets and other contractual and intangible rights of any kind or nature in connection therewith; that all the rights, title, and interest in and to the drawings and work-product will be transferred to the COUNTY by the CONSULTANT, and the CONSULTANT will assist the COUNTY to obtain and enforce patents, copyrights, trademarks, trade secrets, and other contractual and intangible rights of any kind or nature relating to said drawings and work-product that the COUNTY shall become the owner of such drawings and work-product, free and clear from any claim by the CONSULTANT or anyone claiming any right through the CONSULTANT. The CONSULTANT further acknowledges and agrees that the COUNTY'S ownership rights in such drawings and work-product shall apply regardless of whether such drawings and work-product, or any copies thereof, are in the possession of the CONSULTANT, or any other person, firm, corporation, or entity. For the purpose of this AGREEMENT the phrase "drawings and work-product" shall mean the geologic report and map, as-builts, daily summary reports, inspection data sheets, records of field and laboratory test, Final Construction Report, and any other documents required in performing services under this AGREEMENT for PROJECT(S) that result from the tasks assigned to the CONSULTANT by the COUNTY under this AGREEMENT.

B. If AGREEMENT is terminated, or work on a PROJECT is suspended, during or at the completion of any task performed by CONSULTANT hereunder pursuant to Article II, a copy of the report or other documents shall be submitted by the CONSULTANT to the COUNTY, which may use them to complete PROJECT(S) at a future time.

1 C. Documents, including drawings, prepared by the CONSULTANT pursuant to this
2 AGREEMENT are intended to be suitable for use by the COUNTY or others on extensions of the
3 services provided for PROJECT(S). Documents for PROJECT(S) may not be suitable for other
4 projects.

5 XV. DISCLOSURE OF SELF-DEALING TRANSACTIONS

6 This provision is only applicable if the CONSULTANT is operating as a corporation (a for-
7 profit or non-profit corporation) or if during the term of this AGREEMENT, the CONSULTANT
8 changes its status to operate as a corporation. Members of the CONSULTANT'S Board of
9 Directors shall disclose any self-dealing transactions that they are a party to while the
10 CONSULTANT is providing goods or performing services under this AGREEMENT. A self-dealing
11 transaction shall mean a transaction to which the CONSULTANT is a party and in which one or
12 more of its directors has a material financial interest. Members of the CONSULTANT'S Board of
13 Directors shall disclose any self-dealing transactions that they are a party to by completing and
14 signing a Self-Dealing Transaction Disclosure Form (attached as Exhibit E and incorporated herein
15 by this reference); and submitting it to the COUNTY prior to commencing with the self-dealing
16 transaction or immediately thereafter.

17 XVI. ENTIRE AGREEMENT

18 This AGREEMENT constitutes the entire AGREEMENT between the COUNTY and the
19 CONSULTANT with respect to the subject matter hereof and supersedes all previous negotiations,
20 proposals, commitments, writings, advertisements, publications, and understandings of any nature
21 whatsoever unless expressly included in this AGREEMENT.

22 XVII. SEVERABILITY

23 Should any provision herein be found or deemed to be invalid, this AGREEMENT shall be
24 construed as not containing such provision, and all other provisions which are otherwise lawful shall
25 remain in full force and effect, and to this end the provisions of this AGREEMENT are hereby
26 declared to be severable.


27 ///


28 ///

1 IN WITNESS WHEREOF, the parties have executed this Agreement on the date
2 set forth above

3 STRATUS ENVIRONMENTAL, INC.


COUNTY OF FRESNO

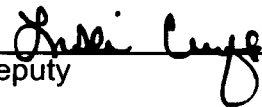
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5 BY: 
6 Gowri Kowtha, President


Brian Pacheco, Chairman
Board of Supervisors

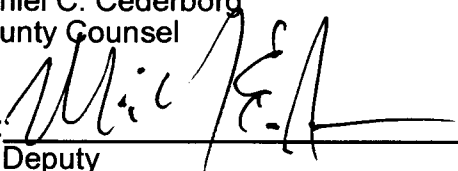
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8 REVIEWED AND RECOMMENDED
9 FOR APPROVAL

ATTEST:
Bernice E. Seidel, Clerk
Board of Supervisors

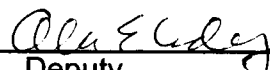
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11 By: 
12 Steven E. White, Director
13 Department of Public Works and
14 Planning

By: 
Deputy

15 APPROVED AS TO LEGAL FORM
16 Daniel C. Cederborg
County Counsel

17 By: 
18 Deputy

19
20 APPROVED AS TO ACCOUNTING
21 FORM
22 Oscar J. Garcia, C.P.A
Auditor-Controller/ Treasurer-Tax
Collector

23 By: 
24 Deputy

25 FUND: 0700, 0701, 0710, 0720
26 SUBCLASS: 15000, 15001
27 ORG: 9015, 9020, 9026, 9028
ACCT: 7295

28

Exhibit A

Project Team

FIRM QUALIFICATIONS



FIRM ORGANIZATION CHART

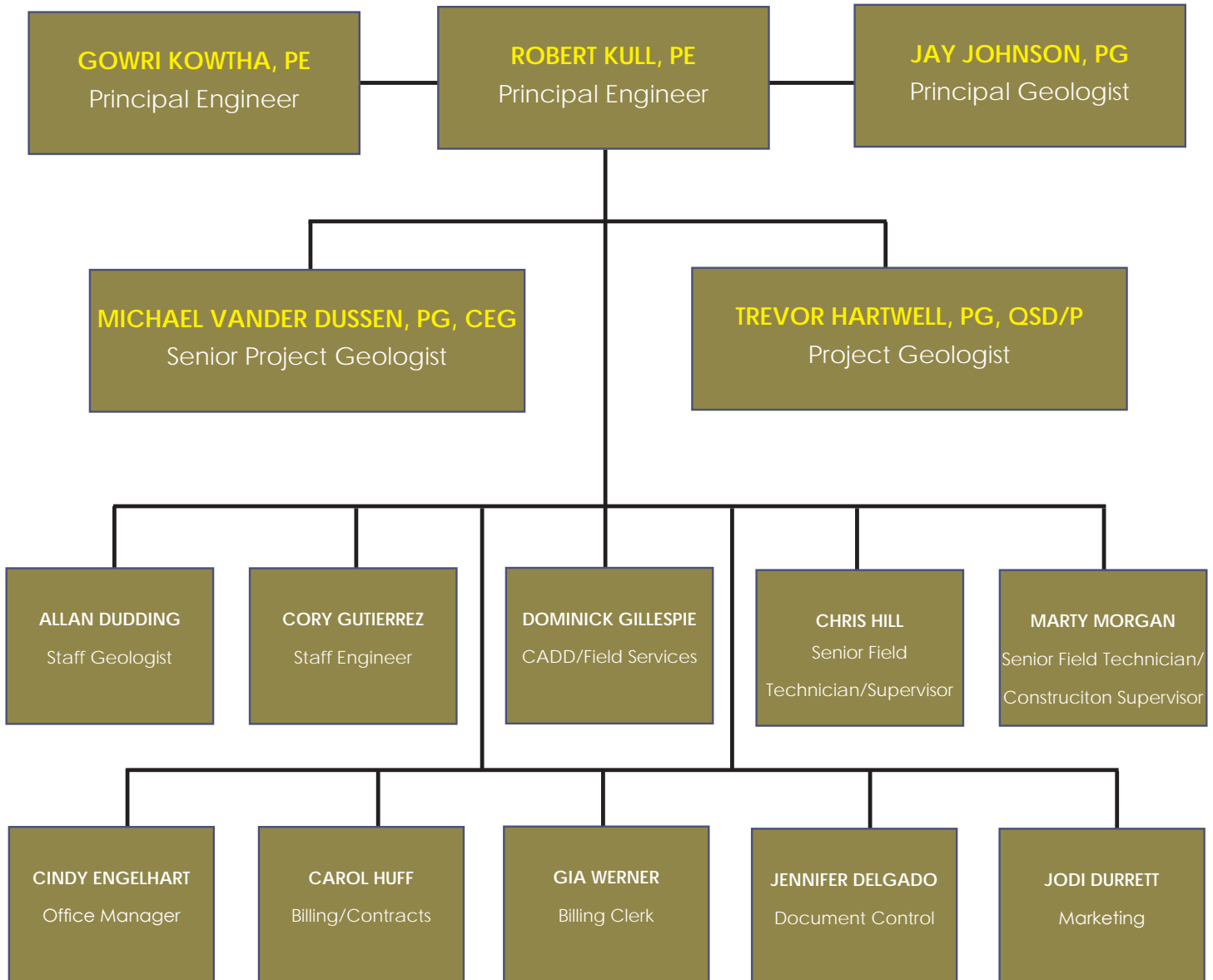


Exhibit B
No Subconsultants Listed

Exhibit C

Rates

Exhibit E - Fee Proposal

Stratus' fee schedule is provided in Table 1 and is inclusive of all costs associated with work likely to be assigned to Stratus related to tasks stated in the County's RFQ, included but not limited to personnel costs, administrative overhead, printing costs, attendance at meetings, travel, etc.

TABLE 1. STRATUS FEE SCHEDULE	
CLASSIFICATION	HOURLY RATE
PRINCIPAL ENGINEER/GEOLOGIST	\$150
SENIOR PROJECT MANAGER	\$130
PROJECT MANAGER	\$125
SENIOR ENGINEER/GEOLOGIST	\$135
SENIOR PROJECT ENGINEER/GEOLOGIST	\$125
PROJECT ENGINEER/GEOLOGIST	\$115
SENIOR STAFF ENGINEER/GEOLOGIST	\$105
STAFF ENGINEER/GEOLOGIST	\$90
FIELD SUPERVISOR	\$95
ENGINEERING INTERN	\$80
ENGINEERING/ENVIRONMENTAL TECH III	\$85
ENGINEERING/ENVIRONMENTAL TECH II	\$75
ENGINEERING/ENVIRONMENTAL TECH I	\$65
CADD OPERATOR II	\$75
CADD OPERATOR I	\$70
ADMINISTRATIVE III	\$70
ADMINISTRATIVE II	\$65
ADMINISTRATIVE I	\$60
EXPERT WITNESS - FILE REVIEW/INVESTIGATIONS	\$225
EXPERT WITNESS - TRIAL/DEPOSITION	\$275
EQUIPMENT/EXPENSES	DAILY RATE
Mileage	Per State and Federal Guidelines
Generator	\$55
PID/FID	\$80
Water Quality Meter	\$75
Water Level Indicator	\$40
Pump with Converter	\$80
Disposable Bailers	\$10/ea
Soil Sampling Equipment	\$40
Truck Rental	\$90
Miscellaneous Sampling Supplies	\$30
Mark-Up	Cost + 10%

Exhibit D
Conflict of Interest Code

28

File #15123
 February 23, 1999
 Resolution #99-086

**BEFORE THE BOARD OF SUPERVISORS
 OF THE COUNTY OF FRESNO
 STATE OF CALIFORNIA**

In the matter of

Adoption of Standard Conflict of Interest
 Code for All County Departments.

Resolution #99-086

Whereas, the Political Reform Act, Government Code section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes; and

Whereas, the Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations section 18730, which contains the terms of a standard conflict of interest code, and which may be amended by the Fair Political Practices Commission after public notices and hearings to conform to amendments to the Political Reform Act; and

Whereas, any local agency may incorporate this standard conflict of interest code, and thereafter need not amend the text of its code to conform to future amendments to the Political Reform Act or its regulations; and

Whereas, the Board of Supervisors is the code reviewing body for all County departments except courts; and

Whereas, the Board of Supervisors may adopt the standard conflict of interest code on behalf of all County departments.

Now therefore be it resolved, that the terms of 2 California Code of Regulations section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and, along with the Exhibits A and B approved previously, today, or in the future, by this Board for each County department, in which officers and employees are designated and disclosure categories are set forth,

1 constitute the conflict of interest codes of each County department except courts.

2 Conflict of Interest forms shall be filed as follows:

3 1. As required by Government Code Section 87500, subdivision (e), the
4 County Administrative Officer, District Attorney, County Counsel, and Auditor-
5 Controller/Treasurer-Tax Collector shall file one original of their statements with the County
6 Clerk, who shall make and retain copies and forward the originals to the Fair Political
7 Practices Commission, which shall be the filing officer. The County Administrative Officer,
8 District Attorney, County Counsel, and Auditor-Controller/Treasurer-Tax Collector shall also
9 file one copy of their statements with the Clerk to the Board of Supervisors.

10 2. As required by Government Code section 87500, subdivision (j), all other
11 department heads shall file one original of their statements with their departments. The filing
12 officer of each department shall make and retain a copy of the department head's statement
13 and shall forward the original to the Clerk to the Board of Supervisors.

14 3. All other designated employees shall file one original of their statements with
15 their departments.

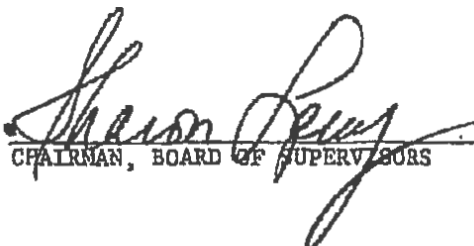
16 All statements shall be public records and shall be made available for public
17 inspection and reproduction. (Gov. Code, § 81008.)

18 Adopted at a regular meeting of the Board of Supervisors, held on the 23rd day
19 of February, 19 99, by the following vote, to wit:

20 Ayes: Supervisors Koligian, Case, Arambula, Oken, Levy

21 Noes: None

22 Absent: None

23 
CHAIRMAN, BOARD OF SUPERVISORS

24 ATTEST:
25 SHARI GREENWOOD, CLERK
BOARD OF SUPERVISORS

26 
27 By Sharon Ray
Deputy

28 File #15123 Agenda #28 Resolution #99-086

EXHIBIT "A"

PUBLIC WORKS AND PLANNING

<u>Classification</u>	<u>Category</u>
Accountant I / II	2
Architect	1
Assistant Real Property Agent	1
Associate Real Property Agent	1
Building Inspector I / II	1
Building Plans Engineer	1
Capital Projects Division Manager	1
Chief Building Inspector	1
Chief of Field Surveys	1
Community Development Manager	1
Consultant	*
Deputy Director of Planning	1
Deputy Director of Public Works	1
Deputy Director of Resources & Administration	1
Development Services Manager	1
Director of Public Works and Planning	1
Disposal Site Supervisor	2
Engineer I / II / III	1
Field Survey Supervisor	3
Housing Rehabilitation Specialist I / II	1
Information Technology Analyst I / II / III / IV	2
Landfill Operations Manager	1
Planner I / II / III	1
Principal Accountant	1
Principal Planner	1
Principal Staff Analyst	1
Public Works and Planning Business Manager	1
Public Works Division Engineer	1
Road Maintenance Supervisor	1
Road Superintendent	1
Senior Accountant	2
Senior Engineer	1
Senior Engineering Technician	2
Senior Information Technology Analyst	2
Senior Planner	1

<u>Classification</u>	<u>Category</u>
Senior Staff Analyst	1
Senior Systems and Procedures Analyst	2
Staff Analyst I / II / III	1
Supervising Accountant	1
Supervising Building Inspector	1
Supervising Engineer	1
Supervising Water/Wastewater Specialist	1
Systems and Procedures Analyst I / II / III	2
Systems and Procedures Manager	2
Traffic Maintenance Supervisor	2

- * Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Director of Public Works and Planning may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Director of Public Works and Planning's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

EXHIBIT "B"

PUBLIC WORKS AND PLANNING

1. Persons in this category shall disclose all reportable investments, interests in real property, sources of income (including gifts), and business positions. Financial interests (other than gifts) are reportable only if located within or subject to the jurisdiction of Fresno County, or if the business entity is doing business or planning to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the filing of the statement. Real property shall be deemed to be within the jurisdiction of the County if the property or any part of it is located within or not more than two miles outside the boundaries of the County (including its incorporated cities) or within two miles of any land owned or used by the County.
2. Persons in this category shall disclose all reportable investments in, income from (including gifts), and business positions with any business entity which, within the last two years, has contracted or in the future foreseeably may contract with Fresno County through its Public Works and Planning Department, Solid Waste Commissions within the jurisdiction, or to any other joint powers agency which Fresno County is a member to provide services, supplies, materials, machinery, or equipment to the County.
3. Persons in this category shall disclose all interests in real property within the jurisdiction of Fresno County. Real Property shall be deemed to be within the jurisdiction if the property or any part of it is located within or not more than two miles outside the boundaries of Fresno County (including its incorporated cities) or within two miles of any land owned or used by the County.

Exhibit E
Self Dealing Transactions Form

Exhibit E

SELF-DEALING TRANSACTION DISCLOSURE FORM

(1) Company Board Member Information:

Name: _____ Date: _____

Job Title: _____

(2) Company/Agency Name and Address:

(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)

(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a)

(5) Authorized Signature

Signature: _____ Date: _____

SELF-DEALING TRANSACTION DISCLOSURE FORM INSTRUCTIONS

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing the disclosure form.

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Codes.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).