

EXHIBIT B

CONSULTANT SERVICES MASTER AGREEMENT

THIS AGREEMENT is made at Stockton, California, as of {MONTH AND DAY}, 2019, by and between the SAN JOAQUIN AREA FLOOD CONTROL AGENCY ("Agency"), and {CONSULTANT NAME} ("Consultant"), who agree as follows:

1. **SERVICES**. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide or cause to be provided to Agency the services described in Exhibit A. Consultant shall provide said services at the time, place and in the manner specified in Exhibit A.

2. **PAYMENT**. Agency shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all billings for said services to Agency in the manner specified in Exhibit B; or, if no manner be specified in Exhibit B, then according to the usual and customary procedures and practices which Consultant uses for billing clients similar to Agency.

3. **FACILITIES AND EQUIPMENT**. Except as set forth in Exhibit C, Consultant shall, at its sole cost and expense, furnish all facilities and equipment or data which may be required for furnishing services pursuant to this Agreement. Agency shall furnish to Consultant only the facilities, equipment or data listed in Exhibit C according to the terms and conditions set forth in Exhibit C.

4. **GENERAL PROVISIONS**. The general provisions set forth in Exhibit

D are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control insofar as it is inconsistent with the general provisions.

5. **EXHIBITS.** All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

6. **CONTRACT ADMINISTRATION.** This Agreement shall be administered by the Executive Director ("Administrator"). All correspondence shall be directed to or through the Administrator or his or her designee.

7. **NOTICES.**

Any written notice to Consultant shall be sent to:

NAME
ADDRESS
CITY, STATE
ZIP CODE

Any written notice to Agency shall be sent to:

Chris Elias, Executive Director
San Joaquin Area Flood Control Agency
22 East Weber Avenue, Room 301
Stockton, CA 95202

Executed as of the day first above stated:

{CONSULTANT NAME}

By:

Name
Title

SAN JOAQUIN AREA FLOOD
CONTROL AGENCY

By:

Chris Elias
Executive Director

Approved as to Form:

By: _____
Scott L. Shapiro
General Counsel

EXHIBIT A

SCOPE OF SERVICES

At the request of SJAFCA, {CONSULTANT'S NAME}, Inc. shall:

- [Services should be detailed here]
-
-
-
-
-

All services will be provided in accordance with a Fee Schedule (see Exhibit B-1) and updated on {Month} 1st of each year.

TERM

The term of this Agreement shall be for _____ from the date of execution, unless otherwise terminated by the Agency, and may be extended by the Agency and subject to re-negotiation by the parties for additional periods.

EXHIBIT B

PAYMENT SCHEDULE

Agency shall pay Consultant an amount not to exceed the total sum of Spell out dollar amount (\$XXX,XXX.XX) for services to be performed and reimbursable costs incurred pursuant to this Agreement. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information.

1. Serial identifications of progress bills, i.e., Progress Bill No. 1.
2. The beginning and ending dates of the billing period.
3. A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available and the percentage of completion.
4. For each work item in each task, a copy of the applicable time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense.

Agency shall make monthly payments, based on such invoices, for services satisfactorily performed, and for authorized reimbursable costs incurred.

The total sum stated above shall be the total which Agency shall pay for the services to be rendered by Consultant pursuant to this Agreement. Agency shall not pay

any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement.

Agency shall make no payment for any extra, further or additional service pursuant to this Agreement unless such extra service and the price therefore is agreed to in writing executed by the Executive Director or other designated official of Agency authorized to obligate Agency thereto prior to the time such extra service is rendered and in no event shall the sum of such change order together with the previous change orders exceed \$100,000 without Board approval. The dollar amounts of change orders approved by specific Board action, plus the dollar amounts of any change orders which predate such specific Board action, shall not be counted in computing the authority limits of the Executive Director or other designated official to approve change orders hereunder.

Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the fee schedule of hourly billing included as Exhibit B-1.

Reimbursable expenses are also specified on Exhibit B-2. Expenses not listed are not chargeable to Agency.

The services to be provided under this Agreement may be terminated without cause at any point in time in the sole and exclusive discretion of Agency. In this event, Agency shall compensate the Consultant for all outstanding costs incurred for work satisfactorily completed as of the date of written notice thereof. Consultant shall maintain adequate logs and time sheets in order to verify costs incurred to date.

The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a fully executed contract from the Executive Director of the Agency.

EXHIBIT B-1

20__ STANDARD RATE SCHEDULE *

Cut & Paste the Consultant's Fee Schedule here.

EXHIBIT B-2

REIMBURSABLE EXPENSES

- At cost plus 10% for outside printing, plotting, copying, travel, sub-consultants, and outside services and charges
- At 5% of labor for in-house expenses including telephone, computer, and incidental copying and printing
- Auto mileage per current Federal Rates

EXHIBIT C

While CONSULTANT is performing services locally, Agency shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with Agency employees and reviewing records and the information in possession of Agency. The location, quantity, and time of furnishing said physical facilities shall be in the sole discretion of Agency. In no event shall Agency be obligated to furnish any facility which may involve incurring any direct expense, including, but not limiting the generality of this exclusion, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

EXHIBIT D

GENERAL PROVISIONS

1. INDEPENDENT CONTRACTOR. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, Agency shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement.
2. LICENSES; PERMITS; ETC. Consultant represents and warrants to Agency that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to Agency that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession. In addition to the foregoing, Consultant shall obtain and maintain during the term hereof a valid City of Stockton Business License.
3. TIME. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of Consultant's obligations pursuant to this Agreement.
4. INSURANCE REQUIREMENTS. Consultant shall procure and maintain for the duration of the contract "occurrence coverage" insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, employees or sub-consultants. The cost of such insurance shall be included in the Consultant's bid.
 - (a) Minimum Scope of Insurance. Coverage shall be at least as broad as:
 1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services office Commercial General Liability coverage ("occurrence" form CG 0001.)
 2. Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 "any auto" and endorsement CA 0025.
 3. Workers' Compensation Insurance as required b the Labor Code of the State of California and Employers Liability Insurance.

- (b) Minimum Limits of Insurance. Consultant shall maintain limits no less than:
1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
 3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.
- (c) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Agency. At the option of the Agency, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Agency, its officers, officials and employees; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- (d) Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:
1. General Liability and Automobile Liability Coverage.
 - a. The Agency, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of the protection afforded to the Agency, its officers, officials, employees or volunteers.
 - b. The Consultant's insurance coverage shall be primary insurance as respects the Agency, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Agency, its officers, officials, employees or

volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, its officers, officials, employees or volunteers.
- d. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage.

The insurer shall agree to waive all rights of subrogation against the Agency, its officers, officials, employees and volunteers for losses arising from work performed by the Consultant for the Agency.

3. Professional Liability.

Consultant shall carry professional liability insurance in an amount of \$1,000,000 per / \$1,000,000 annual aggregate to adequately protect the Consultant against liability caused by negligent acts, errors or omissions on the part of the Consultant in the course of performance of the services specified in this Agreement.

4. All Coverages.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.

- (e) Acceptability of Insurers. Insurance is to be placed with insurers with a Bests' rating of no less than A:VII.
- (f) Verification of Coverage. Consultant shall furnish Agency with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the Agency before work commences. The Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

- (g) Subconsultants. Consultant shall include all Sub-consultants as insured under its policies or shall furnish separate certificates and endorsements for each sub-consultant. All coverages for Sub-consultants shall be subject to all of the requirements stated herein.
- (h) Waiver. The Executive Director of Agency may approve a variation in those insurance requirements upon a determination that the coverages, scope, limits and forms of such insurance are either not commercially available or that the Agency's interests are otherwise fully protected.

5. CONSULTANT NO AGENT. Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6. ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

7. PERSONNEL. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, desires the removal of any such persons, Consultant shall, immediately upon receiving notice from Agency of such desire of Agency, cause the removal of such person or persons.

8. EQUAL EMPLOYMENT OPPORTUNITY

- (a) Affirmative Action in Employment. Consultant shall comply with the Affirmative Action Program and Equal Employment requirements of the Agency.
 - i. Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, handicap, age, or national origin. Consultant will take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, handicap, sex, sexual orientation, age, or nation origin. Such action shall include but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection from training, including apprenticeship.

- ii. Consultant will incorporate the above Affirmative Action provisions in all sub-consultants for services covered by this Agreement.
- (b) General Employment Provisions Relating to Handicap/Disability Discrimination. No qualified individual with a handicap or disability shall, solely on the basis of such handicap or disability, be subjected to discrimination in employment by Consultant.
- (c) Reports. Consultant shall provide such reports and/or documents to Agency demonstrating compliance with the terms hereof.

9. STANDARD OF PERFORMANCE. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. All instruments of service of whatsoever nature which Consultant delivers to Agency pursuant to this Agreement shall be prepared in a substantial, first class and workmanlike manner and conform to the standards of quality normally observed by a person practicing in Consultant's profession.

10. HOLD HARMLESS AND RESPONSIBILITY OF CONTRACTORS. Consultant shall indemnify, defend, and hold harmless the Agency, its officers, employees, and agents from and against any and all claims, loss, costs, expenses (including, but not limited to, attorney's fees and costs incurred by the Agency), injury, or damage to the extent caused by the recklessness, negligent acts or omissions, or intentional misconduct of Consultant, its employees, officers, or agents, or any of its contractors or subcontractors used in performance of this Agreement.

11. GOVERNMENTAL REGULATIONS. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant shall comply with all applicable rules and regulations to which Agency is bound by the terms of such fiscal assistance program.

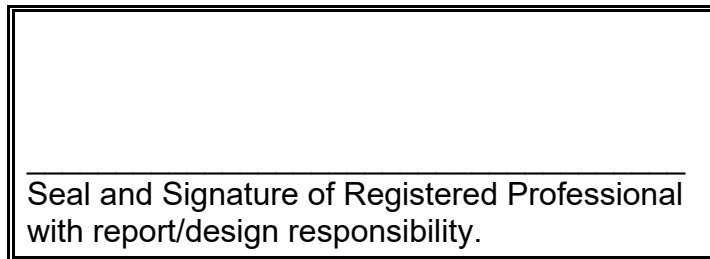
12. DOCUMENTS. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda or other written documents or materials prepared by Consultant pursuant to this Agreement shall become the property of Agency upon completion of the work to be performed hereunder or upon termination of the Agreement.

13. COMPLIANCE WITH APPLICABLE LAWS. Consultant shall comply with all laws applicable to the performance of the work hereunder, including, but not limited to, laws

prohibiting discrimination based on race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex.

14. USE OF RECYCLED PRODUCTS. Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

15. PROFESSIONAL SEAL. Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility" as per sample below.



16. AMENDMENTS. This Agreement may be amended or modified only by a written agreement signed by all parties.

17. VALIDITY. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

18. GOVERNING LAW. This Agreement shall be governed by the laws of the State of California and any suit or action by either party shall be brought in the County of San Joaquin, California.

19. MEDIATION. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be shared equally by the parties. If a mediated settlement is reached, neither party shall be deemed the prevailing party for purposes of the settlement, and each party shall bear its own legal costs.

20. ATTORNEYS FEES. If a party brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party is entitled to reasonable attorney's fees in addition to any other relief to which that party may be entitled. Such fees may be set by the court in the same action or in a separate action brought for that purpose.
21. NO-WAIVER. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
22. SURVIVAL. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant survive the termination of this Agreement.
23. CONFLICT OF INTEREST. Consultant may serve other clients, but none who are active within the corporate limits of city or who conduct business that would place Consultant in a "conflict of interest" as that term is defined in the Political Reform Act, codified at California Government Code § 81000 *et seq.*
24. SOLICITATION. Consultant agrees not to solicit business at any meeting, focus group or interview related to this Agreement, either orally or through any written materials.
25. TERMINATION. The services to be provided under this Agreement may be terminated without cause at any point in time at the sole and exclusive discretion of Agency. The Agency shall provide Consultant a one week notice before terminating this Agreement.