



CITY OF MENDOTA

"Cantaloupe Center Of The World"

ROLANDO CASTRO
Mayor

VICTOR MARTINEZ
Mayor Pro Tempore

JESSE MENDOZA

OSCAR ROSALES

ROBERT SILVA

AGENDA
MENDOTA CITY COUNCIL
Special City Council Meeting
CITY COUNCIL CHAMBERS
643 QUINCE STREET
August 29, 2017
6:00 PM

VINCE DiMAGGIO
City Manager

JOHN KINSEY
City Attorney

The Mendota City Council welcomes you to its meetings; Regular meetings are scheduled for the 2nd and 4th Tuesday of every month. Your interest and participation are encouraged and appreciated. Notice is hereby given that Council may discuss and/or take action on any or all of the items listed on this agenda. Please turn your cell phones on vibrate/off while in the council chambers.

Any public writings distributed by the City of Mendota to at least a majority of the City Council regarding any item on this regular meeting agenda will be made available at the front counter at City Hall located at 643 Quince Street Mendota, CA 93640, during normal business hours 8 AM – 5 PM.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

FINALIZE THE AGENDA

1. Adjustments to Agenda.
2. Adoption of final Agenda.

CITIZENS ORAL AND WRITTEN PRESENTATIONS

At this time members of the public may address the City Council on any matter not listed on the agenda involving matters within the jurisdiction of the City Council. Please complete a "request to speak" form and limit your comments to THREE (3) MINUTES. Please give the completed form to City Clerk prior to the start of the meeting. All speakers shall observe proper decorum. The Mendota Municipal Code prohibits the use of boisterous, slanderous, or profane language. All speakers must step to the podium, state their names and addresses for the record. Please watch the time.

CONSENT CALENDAR

Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Calendar and will be considered separately.

1. Approval of an amendment to the Consultant Services Agreement with Provost & Pritchard for the engineering and construction services for the Derrick Avenue and 7th Street Intersection Beautification & Reconstruction project.

BUSINESS

1. Proposed adoption of **Resolution No. 17-52**, awarding the contract for the construction of the 8th Street Reconstruction Project to Central Valley Asphalt, and authorizing the City Manager to execute all documents necessary for the completion of the project.
 - a. *Receive report from Planning & Public Works Director Gonzalez*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council adopt Resolution No. 17-52*

ADJOURNMENT

CERTIFICATION OF POSTING

I, Celeste Cabrera, Deputy City Clerk of the City of Mendota, do hereby declare that the foregoing agenda for the Mendota City Council special meeting of August 29, 2017, was posted on the outside bulletin board located at City Hall, 643 Quince Street on Monday, August 28, 2017 at 11:15 a.m.



Celeste Cabrera, Deputy City Clerk

November 23, 2016

Vince DiMaggio, City Manager
City of Mendota
643 Quince Street
Mendota, CA 93640

Subject: Amendment No. 1 to Consultant Services Agreement dated 4/29/11
Topographic Survey, Engineering and Construction Services for Derrick & 7th
Intersection Beautification & Reconstruction for the City of Mendota, CA

Dear Vince:

Thank you for the opportunity to submit this amendment to our existing agreement for design services on 7th Street, for additional surveying, engineering, and construction services. This proposal discusses a revised scope of services together with associated fees.

Scope of Services:

Phase PSE: Final Plans, Specifications and Estimate for Construction

As a result of changes in the City's desired project scope, changes in property ownership along the project corridor, and changes in funding sources and funding agency requirements, the following additional services are required to completed the plans, specifications and estimate and solicit bids for construction of the project:

- Provide additional topographic survey of 7th Street to from Unida Street to Tule Street
- Coordinate with PG&E for relocation and/or adjustment of their facilities
- Coordinate with Caltrans for approval of improvements within their right-of-way and obtain an encroachment permit to perform said improvements
- Coordinate with County of Fresno and assist with CDBG grant application
- Revise previously prepared plans to account for the new ATM kiosk in the Mendota Food Center parking lot, Caltrans requirements along Derrick Ave (SR 33), and modifications to park/plaza on the southerly corner
- Prepare structural calculation and provide plans for relocation of the Mendota Foods sign located in the Mendota Foods parking lot
- Prepare additional plans for street trees, decorative street lighting and curb ramp improvements to Tule Street
- Revise and update project specifications to current codes and scope of work
- Administer bid advertisement and attend pre-bid meeting, attend bid opening, analyze bids and provide recommendation of award in Staff Report and resolution for award of construction contract

Charges for these services are proposed to be the lump sum of **\$35,100.00**.

Phase CA: Construction Administration and Observation Services

These services were not included in the original agreement at all.

During the construction phase of the project, assumed to be eight (8) weeks, Provost & Pritchard will provide the following services:

- Perform construction administration for the project, including responding to RFIs, reviewing potential requests for change orders, processing of contractor payment requests, coordination with contractor, and coordination with City Staff for project updates and scheduling.
- Resident Project Representative to be on site regularly but not full time during construction, and serve as the point of contact with the Contractor. Budgeted time for this is 192 hours (24 hours per planned construction week) of on-site construction observation, including travel time.

Charges for these services are proposed to be the lump sum of **\$55,500.00**.

The net total of this Amendment is an **increase in the contract price of \$90,600.00**.

Schedule:

We will continue to work towards a completing the PS&E bid package with Caltrans permits and County authorization to bid by late winter. Bidding will take place in early spring of 2017, with the intention of starting construction in late spring. .

Terms and Conditions:

This amendment is subject to the terms and conditions of the original Consultant Services Agreement for the project. If this amendment is acceptable, please sign below, and return a copy to our office.

Sincerely Yours,

Provost & Pritchard Consulting Group



David McGlasson, PE, PLS
CE 38482, PLS 6968
Project Manager



Michael L. Osborn, PE
C 66022
Project Engineer

Amendment No. 1 Accepted:

By the City of Mendota

Signature

Vince DiMaggio
City Manager

Date

AGENDA ITEM

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CRISTIAN GONZALEZ, PUBLIC WORKS DIRECTOR
DAVID McGLASSON, CITY ENGINEER

VIA: VINCE DIMAGGIO, CITY MANAGER

SUBJECT: AWARD OF CONTRACT TO THE LOWEST RESPONSIVE BIDDER
8TH STREET RECONSTRUCTION PROJECT (OLLER ST. TO RIO FRIO ST.)

DATE: AUGUST 29, 2017

ISSUE

Should the City Council adopt the attached resolution awarding a construction contract to the lowest responsive bidder and authorizing the City Manager or his designee to execute all documents necessary for the completion of the Project?

BACKGROUND

The reconstruction of a portion of 8th Street, from Oller Street (SR 180) to Rio Frio Street, was identified as a priority public works projects and included in the Fiscal Year 2017/2018 Budget approved by the City Council on June 6, 2017.

In May 2017 Provost & Pritchard Consulting Group was retained to provide survey and engineering design for the Project. BSK Associates was retained to provide geotechnical engineering services for design.

The project was advertised in the Business Journal and construction documents (plans and specifications) have been available to contractors through local Builder's Exchanges since Friday, August 11, 2017.

On Friday, August 25, 2017 at 10:00 a.m. the bid opening was held. Four general contractors attended and submitted bids, along with staff and the assistant City Engineer. The four bids were as follows:

CONTRACTOR	AMOUNT
Central Valley Asphalt	\$ 441,109
Bush Engineering	\$ 469,753
Avison Construction, Inc.	\$ 483,765
AJ Excavation, Inc.	\$ 623,426

ANALYSIS

The Engineer's Opinion of Probable Construction Cost for the Project was \$467,000, so the bids received represent a very good value to the City. Staff believes that the project can proceed in accordance with the Construction Documents and is scheduled to be completed this fall.

This project is scheduled to start on September 18th and be completed in early November. This schedule minimizes the potential for weather delays from rain and relatively low daytime temperatures (highs around 55 degrees) that typically occur starting in late November.

Provost & Pritchard Consulting Group will be retained to provide construction administration and observation services (\$41,600) and BSK Associates will be retained to provide construction testing and observation services (\$8,028.)

FISCAL IMPACT

The approved Fiscal Year 2017/2018 Budget allocated Street Funds from the Gas Tax, Measure C, and Local Transportation Funds (LTF) to finance this Project and four others. \$490,737 from that allocation will be utilized to complete this project.

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution 17-52, awarding the contract for construction of the Project to the lowest responsive bidder, Central Valley Asphalt, and authorizing the City Manager or his designee to execute all documents necessary for the completion of the Project.

August 24, 2017

Vince DiMaggio, City Manager
City of Mendota
643 Quince Street
Mendota, CA 93640

**RE: Additional No. 1
Construction Phase Services
Reconstruction of a Portion of 8th Street from Oller to Rio Frio
Mendota, CA**

Dear Vince:

In accordance with the City's direction, we have prepared the design and construction documents for this project, applied for an Encroachment Permit from Caltrans, and advertised the City's request for bids with the intent to have the project constructed by early November. Bid opening date for this project is August 25, 2017 and, assuming the bids come in favorably, the construction contract will go to City Council for award on a special meeting on Tuesday, August 29, 2017. Our current contract and scope of services does not include construction phase services. This addendum would add the following scope of work to incorporate those services.

The signature below hereby authorizes Phases STAK and CA and the performance of the following tasks for a **fixed fee budget of \$41,600**.

Phase STAK: Construction Staking

The construction documents state that the City will provide construction control points for the project and detailed construction staking limited to curb, gutter and side walk. Other detailed staking is the responsibility of the Contractor. Accordingly, we propose the following tasks:

- Establish construction control points for contractor's use.
- Provide construction staking of concrete curb, gutter and sidewalks, at the request of the contractor, per project specifications.

We propose to complete the Field Survey Phase for the lump sum of **\$3,500**.

Phase CA: Construction Administration and Observation Services

This phase includes construction administration and on-site project representative services for this project, as detailed below:

- Perform construction administration for the project, including running the preconstruction meeting, coordinating with Caltrans for the parent Encroachment Permit for work within Oller St (SR 180), responding to the Contractor's RFIs, reviewing submittals and potential requests for change orders, scheduling of testing, processing of contractor payment requests, coordination with contractor, project close out, and coordination with City Staff throughout the duration of the project for updates and scheduling.

- Resident Project Representative to be on site regularly but not full time during construction, and serve as the point of contact with the Contractor. Budgeted time for this is 144 hours (24 hours per planned construction week) of on-site construction observation, including travel time.

We propose to complete the Construction Administration Phase for the lump sum of **\$38,100**.

Schedule:

Once we are authorized to proceed, we will move forward with the above scope. Bids are opened on August 25, 2017 and construction is tentatively scheduled to begin on September 18, 2017.

Assumptions:

- Construction will last 45 calendar days per project specifications.
- The City will separately retain BSK & Associates to provide necessary construction testing.

Please sign, date and return to Michael Osborn at Provost & Pritchard Consulting Group by emailing mosborn@ppeng.com

Client: City of Mendota

Provost & Pritchard Engineering Group,
Inc. dba Provost & Pritchard Consulting
Group

By:

By:



Name/Title: Vince DiMaggio,
City Manager

Name/Title: David McGlasson, PE, PLS
Principal in Charge

Date Signed:

Date Signed: August 24, 2017



550 West Locust Avenue
Fresno CA 93650
P 559.497.2880
F 559.497.2886
www.bskassociates.com

Sent via email: Cristian@CityofMendota.com

August 23, 2017

BSK Proposal CF17-15622

Mr. Cristian Gonzalez
City of Mendota
643 Quince Street
Mendota, California 93640

**SUBJECT: Proposal for Special Inspection and Materials Testing
8th Street Reconstruction
on 8th street, between Oller Street and Rio Frio Street
Mendota, California 93640**

Dear Mr. Gonzalez:

We are pleased to submit this proposal to provide Special Inspection and Materials Testing for the 8th Street Reconstruction project in Mendota, California.

SCOPE OF SERVICES

Our scope of services for this project includes:

- soils observations and compaction testing.

FEES

We will charge our services on a time and materials basis in accordance with the hourly rates listed in the Cost Estimate below. The hours listed in our Cost Estimate are only estimates, as we cannot account for delays of which we have no control, such as, but not limited to: retest and reinspections, contractor's schedule, contractor's means and methods, or number of workers on contractor's crew. We will separate retests, reinspections, standby, cancellations, and extra work on the monthly invoices as these will increase the total billing beyond what we estimated. We understand that this project will be subject to prevailing wage requirements. Travel time and mileage will be billed on a "portal-to-portal" basis from BSK-Fresno, with a minimum of 2-hours, and 1-hour increments thereafter. Invoices will be submitted on monthly intervals based on the work completed during the invoice period. Any testing requested beyond that noted on the Cost Estimate will be charged in accordance with the 2017 BSK Fee Schedule rates. To accommodate construction schedules, BSK may subcontract special inspectors. Inspections performed by

subcontract providers will be billed as specified for BSK employees, herein, and at the rates included in the Cost Estimate.

Cost Estimate

FIELD SERVICES	DAYS	HRS/DAY	HOURS	RATE	COST
Earthwork Construction					
Observation - Geotechnical Engineer	2	6	12	\$182	\$2,184
Continuous Obs & Compaction Testing - Technician	4	6	24	\$96	\$2,304
Compaction Testing - Technician	6	2	12	\$96	\$1,152
	TRIPS	HRS/TRIP	HOURS	RATE	COST
Mobilization / Travel	10	2	20	\$78	\$1,560
Mobilization / Travel	2	2	4	\$182	\$728
	TRIPS	MI/TRIP	MILES	RATE	COST
Mileage	12	84	1008	\$0.88	\$887
FIELD SERVICES ESTIMATE					\$5,903
LABORATORY TESTING					
	FREQUENCY		SETS/UNITS	RATE	COST
Compaction Curves - Site Soils (4" Mold)	1 per material		3	\$210	\$630
LABORATORY TESTING ESTIMATE					\$630
PROJECT MANAGEMENT & ADMINISTRATION			HOURS	RATE	COST
Geotechnical Engineer (Review, support and reporting)			2	\$182	\$364
Project Manager (Field Oversight, Daily Report Review)			4	\$129	\$516
Accounting Professional (DIR Reporting)			2	\$110	\$220
Administration (Data Processing, Report Prep., Field Coordination)				7%	\$395
ADMINISTRATION ESTIMATE					\$1,495
TOTAL BUDGET ESTIMATE					\$8,028

We based our Cost Estimate on the following assumptions:

- All field work will occur during normal business hours Monday through Friday;
- 8-hour work days (including travel time);
- Overtime will be charged at 1.5 times the hourly rate (for working 8 to 12 hours in one day);
- Safe and adequate access to perform testing and inspections is to be provided by the shop, contractor, or client

It is our practice to notify you if it appears that our fees will exceed this estimation; although, due to the timing and nature of our services, this may not always be possible. BSK will make every effort to respond to the needs of your project. However, to provide better service, we ask that you schedule inspection and testing services at least 48 hours in advance. To avoid show-up charges, please cancel requests for service at least two working hours in advance of our arrival time.



GENERAL CONDITIONS AND LIMITATIONS

We have included a copy of the Agreement for Construction Materials Testing Services with this proposal and our General Conditions for Construction Materials Engineering and Testing Services.

We provide material testing and inspection services to help verify that the work is in conformance with the project documents. These services shall not be construed as acceptance of the work or relieve the contractor in any way from its obligations and responsibilities as outlined in the applicable construction documents. We assume no responsibility for the safety of others on the jobsite or the means and methods of construction.

We will perform our services consistent with that level of care and skill ordinarily exercised by other consultants practicing in the same discipline and locale at the time the services are performed. No other warranties, either express or implied are provided. If changes occur in the design of the project, please notify us in writing.

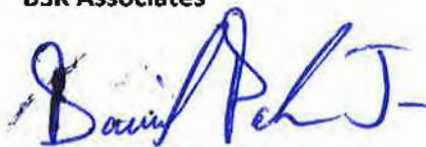
AUTHORIZATION

If our proposal and general conditions are acceptable, please sign our agreement and return to us. We will countersign the agreement and return a copy to you.

We appreciate the opportunity to work with you on this project. If you have any questions, or require additional information or services, please contact the undersigned at (559) 497-2868.

Sincerely,

BSK Associates



Daniel Palmer, Jr.
Project Manager



On Man Lau
South Valley Regional Manager

DPI/OML/cc

Enclosures: Agreement for Construction and Materials Testing Services
General Conditions for Construction and Materials Testing Services



AGREEMENT FOR CONSTRUCTION MATERIALS ENGINEERING AND TESTING SERVICES

THIS AGREEMENT, effective as of this _____ day of _____ 2017, is by and between City of Mendota (“Client”) and BSK Associates (“Consultant”).

THE PROJECT is generally described as 8th Street Reconstruction at on 8th street, between Oller Street and Rio Frio Street in Mendota, California 93640.

THIS AGREEMENT consists of the following documents which are incorporated herein by reference:

- General Conditions for Construction and Materials Testing Services;
- Consultant’s Scope of Services presented in BSK’s proposal CF17-15622, dated August 23, 2017.

Consultant agrees to perform the Services set forth in this Agreement and in accordance with its terms, including all attachments incorporated herein by reference. This Agreement may not be modified or altered, except in writing as specifically described in this Agreement.

	Client	Consultant
Signature:	_____	_____
Print Name:	_____	On Man Lau
Title:	_____	South Valley Regional Manager
Company:	City of Mendota	BSK Associates
Address:	643 Quince Street	550 West Locust Avenue
	Mendota, California 93640	Fresno, California 93650
Date:	_____	_____



GENERAL CONDITIONS FOR CONSTRUCTION MATERIALS ENGINEERING & TESTING SERVICES

1. DEFINITIONS

1.1 Contractor. The contractor or contractors, and including its/their subcontractors of every tier, retained to perform construction Work on the Project for which Company is providing Services under this Agreement.

1.2 Day(s). Calendar day(s) unless otherwise stated.

1.3 Hazardous Materials. Any toxic substances, chemicals, radioactivity, pollutants or other materials, in whatever form or state, known or suspected to impair the environment in any way whatsoever. Hazardous Materials include, but are not limited to, those substances defined, designated or listed in any federal, state or local law, regulation or ordinance concerning hazardous wastes, toxic substances or pollution.

1.4 Inspection (or Observation). Visual determination of conformance with specific or, on the basis of Company's professional judgment, general requirements.

1.5 Services. The professional services provided by Company under this Agreement, including all services described in the SCOPE OF SERVICES included in Exhibit A, and any written Task Order or amendment to this Agreement.

1.6 Testing. Measurement, examination, performance of tests, and any other activities to determine the characteristics or performance of materials.

1.7 Work. The labor, materials, equipment and services of Contractor.

2. SCOPE OF SERVICES

2.1 Services Provided; Independent Contractor. Company will provide construction materials engineering and testing services as set forth in the SCOPE OF SERVICES in Exhibit A. Company will perform its Services under this Agreement as an independent contractor.

2.2 Authority of Company. Company will report observations and data to the Client. Company will report any observed work to the Client or Client's representative, which, in Company's opinion, does not conform with plans, specifications, and codes applicable to the Project. Company has no right or responsibility to approve, accept, reject, or stop work of any agent of the Client.

2.3 Referenced Standards. Company will perform all standard tests, inspections and observations in general accordance with referenced standards and makes no representation regarding compliance with any other standards.

2.4 Variation of Material Characteristics and Conditions. Observations and standardized sampling, inspection and testing procedures employed by Company will indicate conditions of materials and construction activities only at the precise location and time where and when Services were performed.

Client recognizes that conditions of materials and construction activities at other locations may vary from those measured or observed, and that conditions at one location and time do not necessarily indicate the conditions of apparently identical material(s) at other locations and times. Services of Company, even if performed on a continuous basis, should not be interpreted to mean that Company is observing, verifying, testing or inspecting all materials on the Project. Company is responsible only for those data, interpretations, and recommendations regarding the actual materials and construction activities observed, sampled, inspected or tested, and is not responsible for other parties' interpretations or use of the information developed. Company may make certain inferences based upon the information derived from these procedures to formulate professional opinions regarding conditions in other areas.

2.5 Changes in Scope. Client may request changes in the SCOPE OF SERVICES in Exhibit A. Such changes, including any change in Company's compensation or time of performance, which are mutually agreed upon by Company and Client, will be incorporated in written amendments to this Agreement. No change will be effective unless it is in writing and signed by Client and Company, or if made orally, confirmed by the parties in writing within 10 days.

2.6 Excluded Services. Company's Services under this Agreement include only those Services specified in the SCOPE OF SERVICES in Exhibit A. Client expressly releases any claim against Company relating to any additional Services that Company recommended, but that Client either did not authorize or instructed Company not to perform.

3. PAYMENTS TO COMPANY

3.1 Basic Services. Company will perform all Services set forth in the SCOPE OF SERVICES AND SCHEDULE OF CHARGES for the amount(s) set forth therein. Company will give Client at least 30 days advance notice of any changes to its standard rates. Unless Client objects in writing to the amended fee structure within 30 days of notification, it will be incorporated into this Agreement and will supersede any prior fee structure.

3.2 Additional Services. Any Services performed under this Agreement, except those Services expressly identified otherwise in the attached SCOPE OF SERVICES in Exhibit A, will be provided on a time and materials basis unless otherwise specifically agreed to in writing by both parties.

3.3 Estimate of Fees. Company will, to the best of its ability, perform the Services and accomplish the objectives defined in this Agreement within any written cost estimate provided by Company. Client recognizes that unforeseen circumstances along with changes in scope and schedule can influence the successful completion of Services within the estimated cost. The use of an estimate of fees or of a "not to

exceed" limitation indicates that Company will not incur fees and expenses in excess of the estimate or limitation amount without obtaining Client's agreement to do so, but is not a guarantee that the Services will be completed for that amount.

3.4 Rates. Client will pay Company at the rates set forth in the SCHEDULE OF CHARGES in Exhibit A, which is subject to periodic review and amendment, as appropriate to reflect Company's then-current fee structure.

3.5 Prevailing Wages. Unless Client specifically informs Company in writing that prevailing wage regulations cover the Project and the SCOPE OF SERVICES in Exhibit A identifies it as covered by such regulations, Client hereby releases and agrees to reimburse Company for any liability and costs it may incur resulting from a subsequent determination that prevailing wage regulations cover the Project, including all costs, fines and attorney's fees.

3.6 Payment Timing; Late Charge. Company will submit invoices to Client periodically, but no more frequently than every two (2) weeks. All invoices are due and payable upon presentation, and any amounts unpaid 30 days after the invoice date will include a late payment charge from the date of the invoice, at 1-1/2% per month or the maximum legal rate, whichever is lower. The failure by Client to pay Company within thirty (30) days of date of invoice will constitute a substantial failure of Client to perform under this Agreement. Client will reimburse Company for all time spent and expenses (including fees of any attorney, collection agency, and/or court costs) incurred in connection with collecting any delinquent amount.

3.7 Payment Disputes. If Client objects to any portion of an invoice, Client must so notify Company in writing within 10 days of the invoice date, identify the cause of disagreement, and pay when due the portion of the invoice not in dispute. The parties will immediately make every effort to resolve the disputed portion of the invoice. Payment thereafter will first be applied to accrued interest and then to the unpaid principal amount.

4. PERFORMANCE STANDARD

4.1 Professional Standards. Company will perform the Services consistent with that level of care and skill ordinarily exercised by other professionals providing similar services in the same locale and under similar circumstances at the time the Services are performed. No other representation, express or implied, and no warranty or guarantee is included or intended by this Agreement or any report, opinion, document, or other instrument of service.

4.2 Sampling, Inspection & Test Locations. Unless specifically stated otherwise, the SCOPE OF SERVICES in Exhibit A does not include surveying the Site or precisely identifying sampling, inspection or test locations, depths or elevations. Sampling, inspection and test locations, depths and elevations will be based on field estimates and information furnished by Client and its representatives. Unless stated otherwise in the report, such locations, depths and elevations are approximate. Company will take reasonable precautions to limit damage to the Project Site or Work due to the performance of Services, but Client understands that some damage may necessarily occur in the normal course of

Services, and this Agreement does not include repair of such damage unless specifically stated in the SCOPE OF SERVICES in Exhibit A.

4.3 Sample Disposal. Company will dispose of all samples after submission of the report covering those samples. Company will provide further storage or transfer of samples only upon Client's prior written request and agreement on appropriate compensation.

4.4 Buried Utilities & Structures; Property Restoration. If the Services require borings, test pits or other invasive exploratory work, Client will provide Company with all information in its possession regarding the location of underground utilities and structures. Company will contact an appropriate utility locator and take into consideration utility locations shown on drawings provided to Company by the Client to reduce the risk of damage or injury to underground structures, pipelines and utilities. The Client agrees to hold Company harmless for any damage to underground structures or utilities that are not called to its attention or are not correctly shown on plans or drawings furnished for the purpose of locating such structures and utilities. If Client desires Company to restore the property to its former condition or better, Company will provide the additional Services at an additional cost.

5. CONTRACTOR'S PERFORMANCE

Company is not responsible for Contractor's means, methods, techniques or sequences during the performance of its Work. Company will not supervise or direct Contractor's Work, nor be liable for any failure of Contractor to complete its Work in accordance with the Project's plans, specifications and applicable codes, laws and regulations. Client understands and agrees that Contractor, not Company, has sole responsibility for the safety of persons and property at the Project Site.

6. CLIENT'S RESPONSIBILITIES

In addition to payment for the Services performed under this Agreement, Client agrees to:

6.1 Access. Grant or obtain free access to the Project Site for all equipment and personnel necessary for Company to perform its Services under this Agreement.

6.2 Representative. Designate a representative for notices and information pertaining to the Services, communicate Client's policies and decisions, and assist as necessary in matters pertaining to the Project and this Agreement. Client may change its representative by written notice.

6.3 Information. Supply to Company all information and documents relevant to the Services. Company may rely upon such information without independently verifying its accuracy. Client will notify Company of any known potential or possible health or safety hazard regarding the materials to be tested, including its intended use, chemical composition, relevant MSDS, manufacturers' specifications and literature, and any previous test results.

6.4 Project Information. Client agrees to provide Company within 7 days after written request, a correct statement of the recorded legal title to the property on which

the Project is located and the Client and/or Owner's interest therein.

7. CHANGED CONDITIONS

If Company discovers conditions or circumstances that it did not contemplate ("Changed Conditions") at the time of this Agreement, it will give Client written notice of the Changed Conditions. Client and Company will then negotiate an appropriate amendment to this Agreement. If they cannot agree upon an amendment within 30 days after the notice, Company may terminate this Agreement and be compensated as set forth in Section 12, "Suspension & Delay; Termination."

8. CERTIFICATIONS

Client will not require Company to execute any certification regarding Services performed or Work tested or observed unless: 1) Company believes that it has performed sufficient Services to provide a sufficient basis to issue the certification; 2) Company believes that the Services performed and Work tested or observed meet the criteria of the certification; and 3) Company has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by Company is limited to the expression of a professional opinion based upon the Services performed by Company, and does not constitute a warranty or guarantee, either express or implied. Client agrees not to condition the resolution of any dispute upon Company signing a certification.

9. ALLOCATION OF RISK

9.1 Limitation of Remedy. The total cumulative liability of Company, its subconsultants and subcontractors, and all of their respective shareholders, directors, officers, employees and agents (collectively "Company Entities") to Client arising from Services under this Agreement, including attorney's fees due under this Agreement, will not exceed the gross compensation received by Company under this Agreement or \$50,000, whichever is less. This limitation applies to all lawsuits, claims or actions that allege errors or omissions in Company's Services, whether alleged to arise in tort, contract, warranty, or other legal theory. Upon Client's written request, Company and Client may agree to increase the limitation to a greater amount in exchange for a negotiated increase in Company's fee, provided that the parties amend this Agreement in writing, as provided in Section 14.3 "Modification of This Agreement."

9.2 Indemnification of Client. Subject to the terms and limitations of this Agreement, Company will indemnify and hold harmless Client, its shareholders, officers, directors, employees, and agents from and against any and all claims, suits, liabilities, damages, expenses (including without limitation reasonable attorney's fees and defense costs) and other losses (collectively "Losses") to the extent caused by Company's negligence in performance of this Agreement. Company's defense obligation under this indemnity paragraph is limited to the reimbursement of reasonable defense costs to the extent of the Company's actual indemnity obligation hereunder.

9.3 Indemnification of Company. Client will indemnify and hold harmless Company Entities from and against any and all Losses except to the extent caused by the sole negligence of Company Entities. In addition, except to the extent caused by Company's negligence, Client will defend, indemnify and hold harmless Company Entities from and against any and all Losses arising from or related to the existence, disposal, release, discharge, treatment or transportation of Hazardous Materials, or the exposure of any person to Hazardous Materials, or the degradation of the environment due to the presence, discharge, disposal, release of or exposure to Hazardous Materials.

9.4 No Personal Liability. Client and Company intend that Company's Services will not subject Company's individual employees, officers or directors to any personal liability. Therefore, and notwithstanding any other provision of this Agreement, Client agrees as its sole and exclusive remedy to direct or assert any claim, demand or suit only against the business entity identified as "Company" on the first page of this Agreement.

9.5 Consequential Damages. Neither Client nor Company will be liable to the other for any special, consequential, incidental or penal losses or damages including but not limited to losses, damages or claims related to the unavailability of property or facilities, shutdowns or service interruptions, loss of use, profits, revenue, or inventory, or for use charges, cost of capital, or claims of the other party and/or its customers.

9.6 Continuing Agreement. The provisions of this Section 9, "Allocation of Risk," will survive the expiration or termination of this Agreement. If Company provides Services to Client that the parties do not confirm through execution of an amendment to this Agreement, the provisions of this Section 9 will apply to such Services as if the parties had executed an amendment.

10. INSURANCE

10.1 Company's Insurance. If reasonably available, Company will maintain the following coverages:

10.1.1 Statutory Workers' Compensation/Employer's Liability Insurance;

10.1.2 Commercial General Liability Insurance with a combined single limit of \$1,000,000;

10.1.3 Automobile Liability Insurance, including liability for all owned, hired and non-owned vehicles with minimum limits of \$1,000,000 for bodily injury per person, \$1,000,000 property damage, and \$1,000,000 combined single limit per occurrence; and,

10.1.4 Professional Liability Insurance in amounts of at least \$1,000,000 per claim and annual aggregate.

10.2 Client's Insurance. As appropriate, Client will obtain Builder's Risk or other property insurance to protect it from injury or damage to the Project, and which waives all rights of subrogation against Company. Proceeds from such insurance will be held by Client as trustee and will be payable to Company as its interests appear.

10.3 Certificates of Insurance. Upon request, Company and Client will each provide the other with certificate(s) of insurance evidencing the existence of the policies required herein. Except for Professional Liability and Workers' Compensation Insurance, all policies required under this Agreement shall contain a waiver of subrogation.

11. OWNERSHIP AND USE OF DOCUMENTS

11.1 Company Documents. Unless otherwise agreed in writing, all documents and information prepared by Company including, but not limited to, reports, boring logs, maps, field data, field notes, drawings and specifications, test data and other similar instruments of service (collectively "Documents") are the property of Company. Company has the right, in its sole discretion, to dispose of or retain the Documents.

11.2 Client Documents. All documents provided by Client will remain the property of Client. Company will return all such documents to Client upon request, but may retain copies for its files.

11.3 Use of Documents. Except as otherwise agreed to by Client and Company, all Documents prepared by Company are solely for use by Client and will not be provided by either party to any other person or entity without Company's prior written consent.

11.3.1 Use by Client. Client has the right to reuse the Documents for purposes reasonably connected with this Project for which the Services are provided, including without limitation design and licensing requirements of the Project.

11.3.2 Use by Company. Company retains the right of ownership with respect to any patentable concepts or copyrightable materials arising from Services and the right to use the Documents for any purpose.

11.4 Electronic Media. Company may agree at Client's request to provide Documents and information in an electronic format as a courtesy. However, the paper original issued by Company will remain the final product of the Services. Company makes no warranties, either express or implied, regarding the fitness or suitability of any electronic Documents or media.

11.5 Unauthorized Use. No party other than Client may rely on the Documents without Company's prior written consent and receipt of additional compensation. Client waives any and all claims against Company resulting from the unauthorized use or alteration of Documents by Client or any party obtaining them through Client. Client will defend, indemnify and hold harmless Company from and against any claim, action or proceeding brought by any party claiming to rely upon information or opinions contained in Documents without having obtained Company's prior written consent.

12. SUSPENSION & DELAY; TERMINATION

12.1 Suspension & Delay. Client may, upon 10 days written notice at any time, suspend Company's Services. Company may terminate this Agreement if Client suspends the Services for more than 60 days, in which case Client will pay Company as provided in Section 12.4. If Client suspends the Services, or

if Client or others delay Company's Services, Client and Company agree to equitably adjust the time for completion of the Services and Company's compensation for the additional labor, equipment, and other charges associated with maintaining its workforce for Client's benefit during the delay or suspension, and any charges incurred by Company for demobilization and subsequent remobilization.

12.2 Termination for Convenience. Company and Client may terminate this Agreement for convenience upon 10-days written notice delivered or mailed to the other party.

12.3 Termination for Cause. In the event of material breach of this Agreement, the non-breaching party may terminate this Agreement if the breaching party fails to cure the breach within 10 days following delivery of the non-breaching party's written notice of the breach to the breaching party. The termination notice must state the basis for the termination. The Agreement may not be terminated for cause if the breaching party cures the breach within the 10-day period.

12.4 Payment on Termination. Following termination other than for Company's breach of this Agreement, Client will pay Company for the Services performed prior to the termination notice date, and for any necessary Services and expenses incurred in connection with the termination of the Project, including but not limited to, the costs of completing analysis, records and reports necessary to document job status at the time of termination and costs associated with termination of subcontractor contracts in accordance with Company's then-current SCHEDULE OF CHARGES in Exhibit A.

12.5 Force Majeure. In the event that Company is prevented from completing performance of its obligations under this Agreement by adverse weather or other occurrence beyond the control of Company, then Company will be excused from any further performance of its obligations and undertakings. In the event of a force majeure delay that does not result in termination of the Agreement, the schedules will be equitably adjusted.

13. DISPUTES

13.1 Mediation. All disputes between Company and Client are subject to mediation. Either party may demand mediation by serving a written notice stating the essential nature of the dispute, the amount of time or money claimed, and requiring that the matter be mediated within 45 days of service of notice. No action or suit may be commenced unless the parties fail to conduct the mediation within 45 days after service of notice; or mediation occurred but did not resolve the dispute; or a statute of limitation would elapse if suit was not filed prior to 45 days after service of notice.

13.2 Choice of Law; Venue. This Agreement will be construed in accordance with and governed by the laws of the state in which the Project is located.

13.3 Statutes of Limitations. Any applicable statute of limitations will be deemed to commence running on the earlier of the date of substantial completion of Company's Services under this Agreement or the date on which claimant knew, or should have known, of facts giving rise to its claims.

14. MISCELLANEOUS

14.1 Assignment and Subcontracts. During the term of this Agreement and following its expiration or termination for any reason, neither party may assign this Agreement or any right or claim under it, in whole or in part, without the prior written consent of the other party, except for an assignment of proceeds for financing purposes. Any assignment that fails to comply with this paragraph will be void and of no effect. Company may subcontract for the services of others without obtaining Client's consent if Company deems it necessary or desirable for others to perform certain Services.

14.2 Integration and Severability. This Agreement reflects the parties' entire agreement with respect to its terms and limitations and supersedes all prior agreements, written and oral. If any portion of this Agreement is found void or voidable, such portion will be deemed stricken and the Agreement reformed to as closely approximate the stricken portions as law allows. These terms and conditions survive the completion of the Services under and the termination of the Agreement, whether for cause or for convenience.

14.3 Modification of This Agreement. This Agreement may not be modified or altered, except by a written agreement signed by authorized representatives of both parties and referring specifically to this Agreement.

14.4 Notices. Any and all notices, requests, instructions, or other communications given by either party to the other must be in writing and either hand delivered to the recipient or delivered by first-class mail (postage prepaid) or express mail (billed to sender) at the addresses given in this Agreement.

14.5 Headings. The headings used in this Agreement are for convenience only and are not a part of this Agreement.

14.6 Waiver. The waiver of any term, condition or breach of this Agreement will not operate as a subsequent waiver of the same term, condition, or breach.

14.7 Precedence. These GENERAL CONDITIONS take precedence over any inconsistent or contradictory provisions contained in any other agreement term, proposal, purchase order, requisition, notice to proceed, or other document regarding Company's Services.

14.8 Incorporation of Provisions Required By Law. Each provision and clause required by law to be inserted in this Agreement is included herein, and the Agreement should be read and enforced as though each were set forth in its entirety herein.

End of General Conditions

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA AWARDDING
THE BID FOR THE 8th STREET
RECONSTRUCTION PROJECT (OLLER ST.
TO RIOFRIO ST.) TO DOUG ROSS, INC
dba CENTRAL VALLEY ASPHALT IN
THE AMOUNT OF \$441,109.00 AND
RETAINING PROVOST & PRITCHARD
CONSULTING GROUP AND BSK
ASSOCIATES FOR PROFESSIONAL
CONSTRUCTION PHASE SERVICES**

RESOLUTION NO. 17-52

WHEREAS, the City of Mendota and the City Engineer have determined that 8th Street from Oller Street (SR 180) to Rio Frio Street should be reconstructed (the Project); and

WHEREAS, the City Council in its Fiscal Year 2017/2018 Budget allocated funds from the Gas Tax, Measure C, and Local Transportation Fund funds to finance the Project; and

WHEREAS, Provost & Pritchard Consulting Group along with BSK Associates provided the design and preparation of the construction documents for the project; and

WHEREAS, on August 11, 2017 and August 16, 2017 notice was published in the Business Journal notifying all interested parties to submit bids for the Project; and

WHEREAS, a bid opening was held promptly after the deadline published in the aforementioned notice on August 25, 2017 at 10:00 a.m. in the Council Chambers of the City of Mendota; and

WHEREAS, four companies submitted bids before the deadline, with Doug Ross Inc., dba Central Valley Asphalt, qualifying as the lowest responsible bidder at \$441,109.00; and

WHEREAS, Provost & Pritchard Consulting Group submitted a contract amendment to provide construction management, administration and observation services for \$41,600; and

WHEREAS, BSK Associates provided the City with a proposal for construction testing and observation services for \$8,028;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota, that the City of Mendota awards the contract for the construction of the 8th Street Reconstruction Project to Doug Ross, Inc. dba Central Valley Asphalt in the amount of \$441,109.00 and authorizes the City Manager or his designee to execute all documents necessary for the completion of the Project, including retaining the firms of Provost & Pritchard Consulting Group and BSK Associates to provide professional construction phase services.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a special meeting of said Council, held at the Mendota City Hall on the 29th day of August, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Matt Flood, City Clerk