

AGENDA ITEM NO.

COUNCIL MEETING

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

May 1, 2007

**FROM:** JON R. RUIZ, Interim Public Works Director  
Public Works Department

**BY:** SCOTT L. MOZIER, PE, Assistant Public Works Director  
Public Works Department, Engineering Services

**SUBJECT:** APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH BOYLE ENGINEERING FOR \$89,566 TO DESIGN STREET IMPROVEMENTS AT THE SAN JOAQUIN VALLEY RAILROAD CROSSINGS OF CEDAR, MAPLE, AND CHESTNUT AVENUES AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR HIS DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

#### **KEY RESULT AREA**

One Fresno

#### **RECOMMENDATION**

Approve a professional engineering services agreement with Boyle Engineering for \$89,566 to design street improvements at the San Joaquin Valley Railroad crossings of Cedar, Maple, and Chestnut Avenues and authorize the Public Works Director or his designee to sign the agreement on behalf of the City.

#### **EXECUTIVE SUMMARY**

Boyle Engineering, a California Corporation with an office in Fresno, was selected through the RFQ process to design street improvements at existing at-grade crossings of the San Joaquin Valley Railroad where its track crosses Cedar, Maple, and Chestnut Avenues. The final product will be plans approved by the City, railroad and California Public Utilities Commission (CPUC), ready for construction by a developer or capital project. Staff negotiated a consultant services agreement in the amount of \$89,566. Staff recommends that the Council approve the agreement and authorize the Public Works Director or his designee to sign the agreement.

#### **KEY OBJECTIVE BALANCE**

The recommendation emphasizes the balance between Customer Satisfaction, Employee Satisfaction, and Financial Management. The Agreement was negotiated to the lowest cost and represents the least costly way of providing Customer Satisfaction. In addition, contract administration will be provided by in-house staff reflecting the value that Public Works

Department employees add to this service. Through this effort we are also able to meet our Employee Satisfaction objective.

## **BACKGROUND**

The existing San Joaquin Valley Railroad crossings at Cedar, Maple and Chestnut Avenues require improvements to meet their ultimate configuration of travel lanes, sidewalks, concrete planking and crossing arms. A lengthy and complex process involving the railroad and the California Public Utilities Commission (CPUC) is required prior to any physical modifications being made. Therefore, staff identified the need for an engineering consultant to design the crossing layout and prepare a CPUC General Order 88-B (G.O. 88-B) application for the modification. The approved plans and CPUC G.O. 88-B will then be "shelf-ready" for a developer or capital project to construct the improvements.

On May 23, 2006, the Public Works Department sent a notice inviting consultant engineers to submit "Statements of Qualifications" for design of street improvements at existing railroad crossings along the California Avenue corridor of the San Joaquin Valley Railroad.

Boyle Engineering, of Fresno, submitted a statement of interest and following an interview by Public Works Department staff, was selected to provide professional civil engineering design services for the design of street improvements at the at-grade crossings of Cedar, Maple, and Chestnut Avenues. Following several meetings with staff, professional engineering services compensation was negotiated in the amount of \$89,566.

Staff recommends that the Council approve the agreement and authorize the Public Works Director or his designee to sign the agreement.

## **FISCAL IMPACT**

Entering into this agreement will not impact the City's General Fund. Funds for the design work associated with the Cedar and Chestnut Avenue Crossings will come from the Redevelopment Agency in the amount of \$31,400 for each crossing for a total of \$62,800. Contract administration costs for the Cedar and Chestnut Avenue crossings (estimated at \$2,000 for each crossing) will be billed directly to the RDA. The remaining funds, in the amount of \$31,400 for the design work and contract administration associated with the Maple Avenue crossing, will come from existing Measure C appropriations. The total cost for design and contract administration for all three is estimated at \$98,200.

JRR/SLM/DC/eam  
Apprv Boyle Engr Svcs RR Crossings Imprv 5-1-07

Attachment: Professional Engineering Services Agreement with Boyle Engineering Corporation

**AGREEMENT  
CITY OF FRESNO, CALIFORNIA  
CONSULTANT SERVICES**

THIS AGREEMENT is made and entered into effective the \_\_\_\_ day of \_\_\_\_\_, 2007, by and between the CITY OF FRESNO, a municipal corporation (hereinafter referred to as "CITY"), and BOYLE ENGINEERING, California Corporation (hereinafter referred to as "CONSULTANT").

**RECITALS**

WHEREAS, CITY desires to obtain professional services for the design of plans and general construction contract documents for the preparation of geometrics and construction documents for the street improvements at the three (3) railroad crossings at Cedar Avenue, Maple Avenue, and Chestnut Avenue along the California Avenue corridor of the San Joaquin Valley Road, hereinafter referred to as the "Project", and desires the services of CONSULTANT to provide the services described herein; and

WHEREAS, CONSULTANT is engaged in the business of furnishing technical and expert services as a Civil Engineering Consultant and hereby represents that it is professionally capable of performing, and is licensed to perform the services called for by this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained, to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Scope of Work. CONSULTANT shall perform the services described herein to complete the Project more fully described in Exhibit "A", attached hereto and incorporated herein by reference, and this shall include all work incidental to, or necessary to perform, such services even though not specifically described in Exhibit "A". The work of CONSULTANT shall consist of three Parts as described below. A separate Notice to Proceed will be issued for each of the aforementioned Parts. By entry into this Agreement, and following a written "Notice to Proceed", CITY contracts for the work in Part One. CONSULTANT shall not perform any other Part of the Agreement, and this Agreement shall not be a contract for any other Part, until further performance is authorized by CITY'S issuance of a written "Notice to Proceed." It shall, however, remain CONSULTANT'S offer to perform all remaining parts described herein. In the event CONSULTANT performs work without CITY'S prior written authorization, CONSULTANT will not be entitled to compensation for such work.

a. Part One. Schematic Design Phase.

(1) CONSULTANT shall review the description of the Project set forth in Exhibit "A" and consult with designated representatives of CITY to ascertain the requirements of the Project.

(2) CONSULTANT shall conduct studies and investigations as necessary to confirm requirements of design including, but not limited to, consulting with the various utility agencies.

(3) Based upon the mutually agreed upon Project requirements and any adjustments authorized by CITY in the Construction Budget, CONSULTANT shall design and prepare schematic design drawings and other documents for review, modification, if required, and acceptance by CITY staff sufficient to show the concept and scope of the proposed Project and the scale and relationship of Project components.

(4) CONSULTANT shall submit a preliminary estimate of construction cost for review and acceptance by CITY. As used herein, "construction cost" means the cost of construction under the general construction contract and does not include CONSULTANT'S compensation as herein provided. Such estimate shall include, and shall separately state, the cost of any add or deduct alternatives, the cost of any work which may be let on a segregated bid basis and any equipment or fixtures which may be incorporated in or excluded from the general construction contract as may be necessary to stay within the Construction Budget.

(5) CONSULTANT shall make as many submittals as may be necessary or desirable to obtain the acceptance by CITY and shall assist CITY in applying for and obtaining from applicable public agencies any approval permit, or waiver required by law, which assistance shall include, but not be limited to, making Project information available to CITY.

(6) CONSULTANT may not rely upon any as-builts provided by CITY, but shall investigate the existing conditions and ascertain the adequacy of such as-builts for CONSULTANT'S design. CONSULTANT shall bring to CITY'S attention any discrepancies in the as-builts that are discovered by CONSULTANT. CITY makes no representations regarding any as-builts.

(7) Work shall be undertaken and completed in a sequence assuring expeditious completion. All services shall be rendered and deliverables submitted within 75 calendar days from the issuance of a Notice to Proceed for this Part unless an extension of time is approved in writing by CITY'S Public Works Director (hereinafter referred to as "the Director"). Resubmittals, as necessary to obtain the acceptance by CITY, shall be submitted to CITY within 15 calendar days from receipt of CITY'S comments unless an extension of time is approved in writing by the Director.

b. Part Two. Design Development Phase. After review and acceptance of the schematic design phase and issuance of a written Notice to Proceed with this Part Two:

(1) Based upon the accepted schematic design documents and the Construction Budget, including authorized revisions thereto, CONSULTANT shall prepare for review and acceptance by CITY the design development documents consisting of drawings and other documents to fix and describe the size and character of the Project as necessary to show treatment of significant details. In addition, CONSULTANT shall provide outline specifications of the work as to kinds of materials, systems, and other such design elements as may be required. Such design development documents and specifications shall be subject to review and acceptance by CITY.

(2) CONSULTANT shall submit a revised estimate of construction cost for review and acceptance by CITY. The revised estimate shall include, but shall separately state, the cost of any add or deduct alternates, any work which may be let on a segregated bid basis, and any furnishings, equipment or fixtures which may be incorporated in or excluded from the general construction contract as may be necessary to stay within the Construction Budget, including authorized revisions thereto.

(3) In the event that the revised estimate of construction cost exceeds the preliminary estimate of construction cost previously accepted, excluding therefrom any add alternate, any work which may be let on a segregated bid basis and any furnishing, equipment or fixtures which was identified in Part 1 as that which may be excluded from the general construction contract, CITY shall have the option of accepting or rejecting the revised estimate and CONSULTANT shall, at no additional cost to CITY, make such design changes as may be necessary to reduce the revised estimate so that it shall not exceed the preliminary estimate of construction cost previously accepted by CITY. CITY shall not increase the scope of the Project except by modification of this Agreement which shall include an agreed upon increase in CONSULTANT'S compensation.

(4) CONSULTANT shall make as many submittals as may be necessary or desirable to obtain the acceptance by CITY and shall assist CITY in applying for and obtaining from applicable public agencies any approval, permit, or waiver required by law, which assistance shall include, but not be limited to, making Project information available to CITY.

(5) Work shall be undertaken and completed in a sequence assuring expeditious completion. All services shall be rendered and deliverables submitted within 30 calendar days from the issuance of a Notice to Proceed for this Part unless an extension of time is approved in writing by the Director. Resubmittals, as necessary to obtain the acceptance by CITY, shall be submitted to CITY within 15 calendar days from receipt of CITY'S comments unless an extension of time is approved in writing by the Director.

c. Part Three. Construction Document Phase. After review and acceptance of the design development phase and issuance of a written Notice to Proceed with this Part Three:

(1) CONSULTANT shall prepare from the accepted design development documents, detailed plans and specifications setting forth the complete work to be done, and the materials, workmanship, finishes and equipment, fixtures, and site work required. CONSULTANT shall also prepare necessary bidding information, general and special conditions of the general construction contract, technical specifications of the general construction contract, and the bid proposal and general construction contract forms. Such documents shall be subject to the review and acceptance by CITY. CONSULTANT shall cooperate with, assist and be responsive to CITY'S Purchasing Manager in preparation of all documents including, without limitation, slip-sheeting final documents for printing when requested. CITY'S Standard Specifications must be used by CONSULTANT where possible. Final drawings shall be drawn, printed or reproduced by a process providing a permanent record in black on vellum, tracing cloth or polyester base film. Bid, general conditions, contract and bond document forms or formats regularly used by CITY shall be used by CONSULTANT unless the Director determines they would be impractical for this Project. CONSULTANT shall be responsible for assuring that the special conditions, technical specifications and any other documents prepared by CONSULTANT are consistent with any documents regularly used by CITY that are used for this Project.

(2) Upon request of CITY, CONSULTANT shall provide the calculations used to determine the general construction contract quantities.

(3) CONSULTANT shall make as many submittals as may be necessary or desirable to obtain the acceptance by CITY and shall assist CITY in applying for and obtaining from applicable public agencies any approval, permit, report, statement, or waiver required by law, which assistance shall include, but not be limited to, making Project information available to CITY.

(4) CONSULTANT shall provide CITY with 6 sets of completed plans and 2 sets of completed specifications for review and final acceptance by CITY. Should the plans and specifications as submitted by CONSULTANT not be accepted by CITY, CONSULTANT shall revise the plans and specifications as needed to obtain final acceptance at no additional cost to CITY.

(5) After acceptance of final corrections, if any, CONSULTANT shall provide CITY with one set of accepted reproducible tracings and bid documents for the Project. In addition, CONSULTANT shall provide CITY with one complete set of CAD/System disk files of drawings and complete disk files of specifications in the following format: Auto CAD 2004.

(6) CONSULTANT shall submit a final estimate of construction cost for review and acceptance by CITY. Such estimate shall be calculated as of the date all general construction contract documents are delivered to CITY in final form ready for reproduction and advertising. Such estimate shall include, but shall separately state, the cost of any add or deduct alternates, any work which may be let on a segregated basis, and any equipment, or fixtures which may be incorporated in or excluded from the general construction contract.

(7) In the event that the final estimate of construction cost exceeds the revised estimate of construction cost previously accepted, excluding therefrom any add alternate, any work which may be let on a segregated bid basis and any furnishings, equipment or fixtures which was identified in the final revised estimate in Part Two as that which may be excluded from the general construction contract, CITY shall have the option of accepting or rejecting the final estimate. If CITY elects to reject the final estimate, CONSULTANT shall at no additional cost to CITY, make such design changes as may be necessary to reduce the final estimate so that it shall not exceed the revised estimate of construction cost previously accepted by CITY.

(8) Work shall be undertaken and completed in a sequence assuring expeditious completion. All services shall be rendered and deliverables submitted within 30 calendar days from the issuance of a Notice to Proceed for this Part unless an extension of time is approved in writing by the Director. Resubmittals, as necessary to obtain the acceptance by CITY, shall be submitted to CITY within 15 calendar days from receipt of CITY'S comments unless an extension of time is approved in writing by the Director.

2. Exclusions and Additional Work . Those services, if any, set forth as excluded services in Exhibit "A" are excluded from the services CONSULTANT is to perform under this Agreement. Subsequent to the date of completion of Part Three, changes due to Code revisions or enactments adopted after such date shall constitute additional work. Any such excluded services or additional work may be included by the parties subject to Section 3d of this Agreement.

3. Compensation.

a. CONSULTANT'S sole compensation, except as provided in Section 3d below, for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee of \$89,566. Such fee includes all expenses incurred by CONSULTANT in performance of such services.

b. Statements may be rendered monthly and shall be payable in the normal course of CITY business. Such statements shall be for an amount no greater than that attributable to the Part upon which CONSULTANT is then engaged as provided in Section 3c below.

c. For purposes of determining the division of the total compensation to CONSULTANT as provided in Section 3a above, or should performance of any succeeding Part not be authorized by CITY as provided in Section 1 of this Agreement, it is agreed that the total compensation shall be allocated to the five Parts of CONSULTANT'S performance as follows: Part 1 - 5%, Part 2 - 35%, Part 3 - 60%, . Prior to the award of a general construction contract for the Project, or should such contract not be awarded, the approved Parts as provided above shall be utilized for purposes of determining the fee due to CONSULTANT.

d. The parties may modify this Agreement to increase the scope of work or provide for the rendition of services not required by this Agreement, which modification shall include an agreed upon increase in CONSULTANT'S compensation. Any increase or change in the scope of work must be made by written amendment to the Agreement signed by an authorized representative for each party. CONSULTANT shall not be entitled to any additional compensation if work is performed prior to a signed written amendment.

4. CITY'S responsibilities. CITY will:

a. Upon request by CONSULTANT, provide all information and data which are in CITY'S records and are required in connection with the consulting services including, but not limited to, maps, reports, information, restrictions and easements.

b. Provide, upon request and cooperation of CONSULTANT, access to, and make all provisions necessary to, enter upon public or private lands as required for CONSULTANT to perform such work and inspections as are required in development of the Project; provided, however, if CITY is unable to obtain access to enter upon public or private lands, CONSULTANT shall not be relieved from performing its services as to those public and private lands that are accessible.

c. Manage and be responsible for all negotiations with owners in connection with land or easement acquisition and provide all required title reports and appraisals.

d. With the exception of preparing correspondence required for design, hold all required special meetings, serve all public and private notices, receive and act upon all protests, and perform all services customarily performed by Owners as are necessary for the orderly progress of the work and the successful completion of the Project, and pay all costs incidental thereto.

e. Select the testing laboratory and pay the cost of borings, samplings, and other work involved in soils testing during construction.

f. Conduct onsite inspection during construction to check quality and quantity of work as conditions warrant and be responsible for assuring that the general construction contractor carries out all construction work in accordance with the plans and specifications.

g. Prepare all change orders during construction in cooperation with  
CONSULTANT.

h. Prepare all Progress Payment Estimates in cooperation with  
CONSULTANT.

i. Pay, or cause to be paid, plan check fees, conditional use permit fees  
and site plan review fees.

j. Arrange for and pay, or cause to be paid, any fees associated with  
Environmental Impact Reports or Statements.

k. Subject to Section 24 of this Agreement, provide such additional  
information, service or assistance expressly required of CITY in Exhibit "A".

l. Give reasonably prompt consideration to all matters submitted by  
CONSULTANT for acceptance or approval to the end that there will be no substantial  
delays in CONSULTANT'S program of work. For an acceptance, approval, authorization,  
a request or any direction to CONSULTANT to be binding upon CITY under the terms of  
this Agreement, such acceptance, approval, authorization, request or direction must be in  
writing, duly authorized by CITY and signed on behalf of CITY by the Director or his/her  
designated representative.

5. Termination of Agreement.

a. If, for any reason, (i) CITY determines there is insufficient funding  
available for the Project, or (ii) funds are not appropriated to compensate CONSULTANT  
for work beyond any Part of this Agreement; then CITY may terminate this Agreement  
without any liability whatsoever of CITY to CONSULTANT for breach of contract, default,  
detrimental reliance or any other basis in law or equity, upon 7 calendar days prior written  
notice of termination to CONSULTANT in the manner provided herein.

b. In addition to CITY'S rights of termination pursuant to Section 5a, this  
Agreement may be terminated immediately by either party upon 7 calendar days prior  
written notice should the other party fail substantially to observe, fulfill or perform any  
obligation, covenant, term or condition in accordance with this Agreement. A party will  
have failed substantially to observe, fulfill or perform any obligation, covenant, term or  
condition of this Agreement, if such failure is not cured within such 7 calendar days prior  
written notice and this shall constitute a material default and breach of this Agreement.

c. In the event of termination pursuant to Section 5a or not due to the  
material default of CONSULTANT, CONSULTANT shall be paid compensation for  
services satisfactorily performed prior to the effective date of the notice of termination. As  
to any Part partially performed but for which the applicable portion of CONSULTANT'S  
compensation has not become due, CONSULTANT shall be paid the reasonable value of  
its services in accordance with the schedule of fees in Exhibit "A", provided, however, that  
in no event shall such payment when added to any other payment due under the  
applicable Part of the work exceed the total compensation of such Part as specified in  
Section 3c of this Agreement. In the event of termination due to the material default of

CONSULTANT, CITY may withhold an amount that would otherwise be payable as an offset to, but not in excess of, CITY'S damages caused by such failure.

d. In the event CITY terminates the Agreement pursuant to Section 5b, CITY may exercise any right, remedy (in law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law, or proceed by appropriate court action to enforce the terms of the Agreement, or to recover direct, indirect, consequential or incidental damages for the breach of the Agreement.

e. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

6. Confidential Information, Ownership of Documents and Copyright license.

a. Any reports, information, or other data prepared or assembled by CONSULTANT pursuant to this Agreement shall not be made available to any individual or organization by CONSULTANT without the prior written approval of CITY. During the term of this Agreement, and thereafter, CONSULTANT shall not, without the prior written consent of CITY, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of CITY, including but not limited to business plans, marketing plans, financial information, designs, drawings, specifications, materials, compilations, documents, instruments, models, source or object codes and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in CITY.

b. Any and all original sketches, pencil tracings of working drawings, plans, computations, specifications, computer disk files, writings and other documents prepared or provided by CONSULTANT pursuant to this Agreement are the property of CITY and shall be turned over to CITY upon expiration or termination of the Agreement or default by CONSULTANT and CONSULTANT grants CITY a copyright license to use such drawings and writings. CONSULTANT shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein. CITY may modify the design including any drawings or writings. Any use by CITY of the aforesaid sketches, tracings, plans, computations, specifications, computer disk files, writings and other documents in completed form as to other projects or extensions of this Project, or in uncompleted form, without specific written verification by CONSULTANT will be at CITY'S sole risk and without liability or legal exposure to CONSULTANT. CONSULTANT may keep a copy of all drawings and specifications for its sole and exclusive use.

7. Professional Skill. It is further mutually understood and agreed by and between the parties hereto that inasmuch as CONSULTANT represents to CITY that CONSULTANT is skilled in the profession and shall perform in accordance with the standards of said profession necessary to perform the work agreed to be done by it under this Agreement, CITY relies upon the skill of CONSULTANT to do and perform its work in a skillful manner and CONSULTANT agrees to thus perform its work. Acceptance of its work by CITY shall not operate as a release of CONSULTANT from said standard of care and workmanship.

8. Indemnification. Except with regard to professional services, as provided in the paragraph below, to the furthest extent allowed by law including California Civil Code Section 2782, CONSULTANT shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, CONSULTANT or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. CONSULTANT'S obligations under the preceding sentence shall apply regardless or whether CITY or any of its officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active negligence or willful misconduct of CITY or any of its officers, officials, employees, agents or volunteers.

Specifically regarding professional services, CONSULTANT shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, CONSULTANT or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), to the proportionate extent that it arises out of or in connection with the professional negligent errors or omissions of CONSULTANT in the performance of this Agreement.

For purposes of this section, "professional services" shall mean the preparation, approval, or failure to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs and specifications, and supervisory (including the giving of or the failure to give directions or instructions), inspection, or engineering services. Professional services shall not include activities by CONSULTANT which are peripheral to their performance of actual professional services including but not limited to transportation of CONSULTANT and its personnel nor their physical presence.

If CONSULTANT should subcontract all or any portion of the work to be performed under this Agreement, CONSULTANT shall require each subcontractor to indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraphs.

This section shall survive termination or expiration of this Agreement.

9. Insurance. Throughout the life of this Agreement, CONSULTANT shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Best's Insurance Rating Guide, or (ii) authorized by CITY'S Risk Manager. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall include contractual, products and completed operations coverages, bodily injury and property damage liability insurance with combined single limits of not less than \$1,000,000 per occurrence.

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance, endorsed for "any auto" with combined single limits of liability of not less than \$1,000,000 per occurrence.

(iii) PROFESSIONAL LIABILITY insurance (Errors and Omissions) with a limit of liability of not less than \$1,000,000 per claim.

(iv) WORKERS' COMPENSATION insurance as required under the California Labor Code.

The above described policies of insurance shall be endorsed to provide an unrestricted 30 calendar day written notice in favor of CITY, of policy cancellation of coverage, except for the Workers' Compensation policy which shall provide a 10 calendar day written notice of such cancellation of coverage. **In the event any policies are due to expire during the term of this Agreement, CONSULTANT shall provide a new certificate evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy(ies).** Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, CONSULTANT shall file with CITY a new certificate for such policy(ies).

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name CITY, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so CONSULTANT'S insurance shall be primary and no contribution shall be required of CITY. In the event claims made forms are used for any Professional Liability coverage, either (i) the policy(ies) shall be endorsed to provide not less than a 5 year discovery period, or (ii) the coverage shall be maintained for a minimum of 5 years following the termination of this Agreement and the requirements of this section relating to such coverage shall survive termination or expiration of this Agreement. **CONSULTANT shall have furnished CITY with the certificate(s) and applicable endorsements for ALL required insurance prior to CITY'S execution of the Agreement.** CONSULTANT shall furnish CITY with copies of the actual policies upon the request of CITY'S Risk Manager at any time during the life of the Agreement or any extension.

If at any time during the life of the Agreement or any extension, CONSULTANT fails to maintain the required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that become due to CONSULTANT shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this Agreement.

If CONSULTANT should subcontract all or any portion of the work to be performed under this Agreement, CONSULTANT shall require each subcontractor to provide insurance protection in favor of CITY, its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with CONSULTANT and CITY prior to the commencement of any work by the subcontractor.

10. General Terms.

a. Except as otherwise provided by law, all notices expressly required of CITY within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Director.

b. In performing the work or services to be provided hereunder, CONSULTANT shall not employ or retain the services of any person while such person either is employed by CITY or is a member of any CITY council, commission, board, committee, or similar CITY body. This requirement may be waived in writing by CITY'S Chief Administrative Officer if no actual or potential conflict is involved.

c. CONSULTANT'S services pursuant to this Agreement shall be provided under the supervision of Mark P. Reitz, PE, and he/she shall not assign another to supervise CONSULTANT'S performance of this Agreement without the prior written approval of the Director.

d. Records of CONSULTANT'S expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to CITY or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment. In addition, all books, documents, papers, and records of CONSULTANT pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. This Section 10d shall survive expiration or termination of this Agreement.

e. Prior to execution of this Agreement by CITY, CONSULTANT shall have provided evidence to CITY that CONSULTANT is licensed to perform the services called for by this Agreement. If CONSULTANT should subcontract all or any portion of the work to be performed under this Agreement, CONSULTANT shall require each subcontractor to provide evidence to CITY that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

11. Conflict of Interest and Non-Solicitation.

a. Prior to CITY'S execution of this Agreement, CONSULTANT shall complete a City of Fresno conflict of interest disclosure statement. Said statement is attached hereto as Exhibit "B" and incorporated herein by reference. During the term of this Agreement, CONSULTANT shall have the obligation and duty to immediately notify CITY in writing of any change to the information provided by CONSULTANT on Exhibit "B".

b. CONSULTANT shall comply, and require any of its subcontractors to comply, with all laws and regulations including, without limitation, conflict of interest laws, such as Government Code 1090 et. seq., the California Political Reform Act (Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.). At any time, upon written request of CITY, CONSULTANT shall

provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, CONSULTANT and the respective subcontractor(s) are in full compliance with all laws and regulations. CONSULTANT shall take, and require any subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, CONSULTANT shall immediately notify CITY of these facts in writing.

c. CONSULTANT represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit or procure this Agreement or any rights/benefits hereunder.

d. Neither CONSULTANT, nor any of CONSULTANT'S subcontractors performing any work on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any work pursuant to, the general construction contract or any other contract in connection with this Project. CONSULTANT and any of its subcontractors shall have no interest, direct or indirect, in any other contract in connection with this Project unless such interest is fully disclosed to and approved by CITY, in advance and in writing.

12. Nondiscrimination. CONSULTANT shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. During the performance of this Agreement, CONSULTANT agrees as follows:

a. CONSULTANT will comply with all laws and regulations, as applicable. No person in the United States shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

b. CONSULTANT will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. CONSULTANT shall take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. 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 for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

c. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that all qualified applicants will

receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

d. CONSULTANT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of CONSULTANT'S commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

13. Independent Contractor and Not a Partnership/Joint Venture.

a. In the furnishing of the services provided for herein, CONSULTANT is acting as an independent contractor. Neither CONSULTANT, nor any of its officers, associates, agents or employees shall be deemed an employee, partner or agent of CITY for any purpose. However, CITY shall retain the right to verify that CONSULTANT is performing its respective obligations in accordance with the terms hereof.

b. This Agreement does not evidence a partnership or joint venture between CONSULTANT and CITY. CONSULTANT shall have no authority to bind CITY absent CITY'S express written consent. Except to the extent otherwise provided in this Agreement, CONSULTANT shall bear its own costs/expenses in pursuit hereof.

14. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally or deposited into the United States mail, with postage prepaid, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice.

15. Binding. Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

16. Assignment.

a. This Agreement is personal to CONSULTANT and there shall be no assignment by CONSULTANT of its rights or obligations under this Agreement without the prior written approval of CITY. Any attempted assignment by CONSULTANT, its successors or assigns, shall be null and void unless approved in writing by CITY.

b. CONSULTANT hereby agrees not to assign the payment of any monies due CONSULTANT from CITY under the terms of this Agreement to any other individual(s), corporation(s) or entity(ies). CITY retains the right to pay any and all monies due CONSULTANT directly to CONSULTANT.

17. Compliance With Law. In providing the services required under this Agreement, CONSULTANT shall at all times comply with all applicable laws of the United States, the State of California and CITY, and with all applicable regulations promulgated by

federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

18. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

19. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

20. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

21. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.

22. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

23. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

24. Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

25. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both CITY and CONSULTANT.

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,  
a municipal corporation

Boyle Engineering,  
California Corporation

By: \_\_\_\_\_

By: 

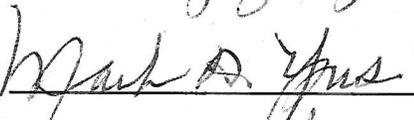
Name: \_\_\_\_\_

Name: Mark Reitz

Title: \_\_\_\_\_

Title: Managing Engineer

ATTEST:  
REBECCA E. KLISCH  
City Clerk

By: 

Name: MARK A. MUST

By: \_\_\_\_\_  
Deputy

Title: ASSISTANT MANAGING  
ENGINEER

APPROVED AS TO FORM:  
James C. Sanchez  
City Attorney

REVIEWED BY:

By:   
Deputy Conley

\_\_\_\_\_  
Michael T. Kim, PE  
City Engineer

Scott Krauter, PE  
Design Services Manager  
Department of Public Works

CITY:  
City of Fresno  
Attention: David A. Cisneros  
Manager  
2600 Fresno Street, 4<sup>th</sup> Floor  
Fresno, CA 93721-3623  
Phone: (559) 621-8804  
FAX: (559) 488-1045

CONSULTANT:  
Attention: Teddy Hioe, PE,  
Senior Civil Engineer  
1360 E. Spruce Avenue, Suite 101  
Fresno, CA. 93720  
Phone: 559-448-8222  
FAX: 559-448-8233

- Attachments:
1. Exhibit "A" - Scope of Work
  2. Exhibit "B" - Conflict of Interest Form

## EXHIBIT "B"

### DISCLOSURE OF CONFLICT OF INTEREST

PROJECT TITLE

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?		X
2	Do you represent any firm, organization or person who is in litigation with the City of Fresno?		X
3	Do you currently represent or perform work for any clients who do business with the City of Fresno?		X
4	Are you or any of your principals, managers or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno?		X
5	Are you or any of your principals, managers or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service?		X
* If the answer to any question is yes, please explain in full.			

\*Not that we are aware of. However, we have no way of knowing the business that our clients do or with whom they do it.

  
 \_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Mark Reitz  
 (name)

\_\_\_\_\_  
 Boyle Engineering Corporation  
 (company)

\_\_\_\_\_  
 1360 E. Spruce Avenue, Suite 101  
 (address)

\_\_\_\_\_  
 Fresno, CA 93720  
 (city state zip)

## SCOPE OF SERVICES

### City of Fresno California Avenue Corridor of the San Joaquin Valley Railroad Street Improvement Design of Railroad Crossings at Cedar, Maple, and Chestnut Avenues

#### Background

The City of Fresno (City) has selected Boyle Engineering Corporation (Consultant) to provide preliminary engineering and final design phase engineering services for the construction of street improvements at existing railroad crossings along the California Avenue corridor of the San Joaquin Valley Railroad Company (SJVRC). The crossings are located at Cedar Avenue, Maple Avenue, and Chestnut Avenue. The proposed project includes site inspection, preparation of preliminary geometric plans, preparation of "shelf ready" plans for Maple Avenue, preparation of final plans for Cedar and Chestnut Avenues, and exhibit drawings required for the filing of permits necessary to complete the project. Also included is identification of underground utilities that must be installed prior to railroad crossing improvements paying particular attention to Fresno Metropolitan Flood Control District (FMFCD) master plan grades. Monumentation of the new street right-of-way lines, preparation of records of survey, or negotiations with property owners is not included in this Scope of Services. The design, plans, and specifications shall be in accordance with the current City of Fresno standards for the roadways and crossings.

Following is a summary of the design parameters associated with this project.

#### Maple Avenue Railroad Crossing

The design objective for the above mentioned railroad crossing is to create a set of construction documents that will be "shelf ready" as a Development Requirement for future improvement. The plans and technical specifications will not be final construction plans but will be sufficient for a developer or other property owner to utilize for design guidance using their own engineer of record. The following design parameters will be included:

- Notify and coordinate with utility companies to identify future and existing underground utilities. Identify utilities that might need to be relocated based on current conditions and design configurations. These will be identified on the plan view only. No permits will be obtained at this time.
- Collaborate with the San Joaquin Valley Railroad to design crossings and specify equipment to meet the standards for "Quiet Zone" designation of crossing.
- Roadway plan and profile drawing scale to be 1" = 20'. Drawing size to be ANSI "E".

- City to provide and prepare base map and provide topographical survey for the project.
- City to provide general provisions and standard specifications for contract documents.
- Consultant to provide technical specifications in Caltrans or City of Fresno format.
- Licensed engineers stamp, road structural sections, and road cross sections will not be provided by the Consultant.
- FMFCD future improvements will be shown on the plan views. FMFCD permit will not be obtained.
- Consultant will prepare California Public Utilities Commission GO 88-B permit for submittal.
- Consultant will prepare a signing and striping plan.
- Consultant will provide an opinion of probable construction cost based on current dollars.

#### **Cedar Avenue and Chestnut Avenue Railroad Crossing**

The design objective for the above mentioned railroad crossings is to create a set of final construction documents. The following design parameters will be included:

- Notify and coordinate with utility companies to identify future and existing underground utilities. Identify utilities that might need to be relocated based on current conditions and design configurations. These will be identified in plan and profile view. Acquire permits and approval as needed.
- Collaborate with the San Joaquin Valley Railroad to design crossings and specify equipment to meet the standards for "Quiet Zone" designation of crossing.
- Roadway plan and profile drawing scale to be 1" = 20'. Drawing size to be ANSI "E".
- City to provide and prepare base map and provide topographical survey for the project.
- City to provide general provisions and standard specifications for contract documents.
- Consultant to provide technical specifications in Caltrans or City of Fresno.
- Provide road structural sections and road cross sections.
- FMFCD future improvements will be shown on the plan, profile and cross section views. Obtain FMFCD approval and permits as needed. Separate FMFCD plans will not be prepared.
- Consultant will prepare California Public Utilities Commission GO 88-B permit for submittal.
- Consultant will prepare a signing and striping plan.

- Consultant will provide an opinion of probable construction cost based on current dollars.

#### **Fresno Irrigation District Facilities**

- Work with the Fresno Irrigation District (FID) such that planned work will not interfere with the existing Braly pipeline.

#### **Railroad Crossing Signal Equipment**

- Provide SJVRC's signal consultant, Quality Signal Construction (QSC), with preliminary plans for their design of the crossing signals. Coordinate QSC's design into Consultant's plans.

### **Work Tasks**

Consultant shall perform the following work tasks for each intersection:

#### **Task 100 – Project Management**

Develop the project schedule and maintain the schedule throughout the duration of the design.

#### **Task 200 – Kickoff Meeting and Data Gathering**

Meet with the City and project team members to discuss the project, refine the project schedule, and identify critical planning and design issues.

Consultant shall perform utility research and work with the City, FMFCD, FID, and utility companies to identify existing utilities in the area including domestic water distribution system, sanitary sewer system, storm drain system, electrical system, gas system, telephone system, and interfering private facilities. Coordination will be to the following agencies and companies:

- City of Fresno
- City of Fresno Public Works and Water Division
- FMFCD
- FID
- PG&E
- AT&T
- Caltrans
- Television cable companies
- SJVRC
- CPUC

Record drawings and design standards shall be obtained and summarized. This summary shall be provided to the City for review, comment, and approval prior to proceeding with the preparation of preliminary plans and specifications. Three copies of this report shall be provided to the City.

Potential utility conflicts will be identified based on available record drawings and site investigation. Utilities that require relocation will also be identified. Consultant will assist the City in processing utility relocation (if any) through the respective utility companies.

#### **Task 300 – 30 Percent Schematic Design Plans**

Utilize the City provided base map showing the topography, right-of-way, and known existing utilities obtained during site investigation and data from utility companies, the City, and other agencies for the coordination meeting with City, project team members, permitting agencies, and utility companies to discuss the project, refine the project schedule, and identify critical planning and design issues. One meeting is included during the schematic design phase.

Following the coordination meeting, preliminary plans shall be prepared to approximately the 30 percent completion level. The major elements of the roadway and crossing design shall be shown during this phase. Utility owners, such as PG&E and AT&T, will be contacted regarding facilities that require relocation due to the proposed improvements. Consultant shall assist the City with obtaining approval from these utilities for relocation of their facilities.

The following are anticipated drawing sheets (approximately 11) for each intersection to satisfy the City of Fresno Public Works Department.

- Cover sheet (1)
- Legend and abbreviations (1)
- Plan and profile roadway sheets at 1"=20' scale (3)
- Roadway typical cross sections (1)
- Crossing details (1)
- Striping and signing sheets (3)

Six sets of plans shall be provided to the City for distribution to the reviewing agencies. Plan sets shall also be provided to PG&E and AT&T to assist with relocation of facilities.

#### **Task 400 – 60 Percent Plans, Technical Specifications, and Opinion of Probable Construction Cost Estimates (PS&E)**

Address the City's comments and findings during the schematic design phase. One coordination meeting with the City is included during this preliminary design phase.

A set of the completed schematic design plans will be provided to SJVRC and QSC for the signal design. It is anticipated all above ground facilities related with the railroad signals can be determined within two weeks from the day QSC receive the plans.

Sixty percent (60%) PS&E will be prepared. The major designed elements of the roadway, crossing, utilities, and QSC's designed signalization shall be shown during this phase.

An opinion of probable construction cost and preliminary technical specifications will also be provided at this time for City review.

Six sets of plans and two sets of technical specifications shall be provided to the City for distribution to the reviewing agencies.

#### **Task 500 – 90 Percent and Final PS&E**

Address the City's comments on the 60 percent PS&E. One coordination meeting with the City is included during this preliminary design phase.

Following review and approval of the 60 percent PS&E by the City, Consultant shall proceed with completion of the 90 percent and final plans, specifications, and contract documents.

The general provisions and contract documents shall be provided to the Consultant by the City of Fresno in hard copy and Microsoft Word electronic format for review and minor editing including inclusion of the bid schedule. The special provisions and technical specifications shall be provided by the Consultant in Caltrans or City of Fresno format. The plans, specifications, and contract documents shall be completed to approximately the 90 percent level for review by the City and other approving agencies described above, including SJVRC. At this point the plans and specifications for the contract will be virtually ready for bidding. This final review is intended to tie up any loose ends before final approval.

Six sets of plans, specifications, and estimate of probable construction cost shall be provided to the City for review and distribution to the other reviewing agencies.

Upon approval of the 90 percent PS&E by the City, Consultant shall proceed with completion of the permit applications required to complete the project. Permits applications for Cedar Avenue and Chestnut Avenue from the CPUC, Interstate Management Group (IMG), and others will be completed and submitted shortly after approval of the 90 percent PS&E. Permit applications for Maple Avenue will be completed and shelved for future use.

The final PS&E for Cedar Avenue and Chestnut Avenue shall also be completed and submitted for final approval and signature by the City of Fresno, the SJVRC, and FMFCD. The "shelf ready" PS&E for Maple Avenue will also be submitted to the City.

Original signed and stamped plans on mylar for Cedar Avenue and Chestnut Avenue will be provided to the City for use in preparing bid sets for advertisement. One camera-ready set of contract documents and specifications will also be provided to the City for reproduction of bid sets.

#### **Additional Services**

The following additional services may be provided by the Consultant upon request of the City and execution of a specific authorization setting forth applicable scope, fee, and schedule provisions:

1. Topo survey and right-of-way research. If requested by the City, this work will be performed by Espinosa Surveying.

2. Geotechnical investigation. This work, if requested by the City, will be performed by BSK and Associates.
3. Preparation of multiple bid packages further subdividing the work or phasing of the project into multiple projects.
4. Additional field survey work outside the limits of work designated herein.
5. Design and relocation of interfering power poles affected by the project will be by PG&E.
6. Preparation of design plans for streetlights.
7. Preparation of any environmental or planning documents required to obtain approval of the project.
8. Attendance at public meetings to assist with explanation of the project or for other reasons required by the City.
9. Preparation of stage construction or traffic handling plans.
10. Attending and making presentations at public information meetings.
11. Preparation of design plans for landscaping and irrigation.
12. Bidding and construction phase services.

#### **Work or Services Provided by City**

1. Provide base map and topographic survey.
2. Provide "R" value maps.
3. Organization and initiation of public meetings if required.
4. Distribution of plans and specifications to other City of Fresno agencies for review and approval.
5. Coordination of other work and consultants related to the project.
6. Potholing of existing buried utilities if required for design.
7. Negotiations with property owners for right-of-way acquisition, if required.
8. Pay all fees associated with permit processing.

#### **Right to Rely**

Consistent with the professional standard of care, Consultant shall be entitled to rely upon the accuracy of data and information provided by the City or others without independent review or evaluation unless

specifically required in the Scope of Services. Consultant shall identify areas of potential conflict between existing facilities and points of connection or conflict with proposed improvements. If points of connection or extent of conflict cannot be ascertained from record drawings or by visual observation, the City will pothole the utility and provide information concerning the location of the existing facilities to the Consultant. This information shall be incorporated into the design of the improvements.

### **Estimates of Construction Cost**

Any Estimate of the Construction Cost prepared by Consultant represents his judgment as a design professional and is supplied for the general guidance of the City. Since Consultant has no control over the cost of labor and material, or over competitive bidding or market conditions, Consultant does not guarantee the accuracy of such opinions as compared to contractor bids or actual cost to the City.

### **Disk Files**

CADD/system disk files delivered to City, if requested, shall not include the professional stamp or signature of an engineer. The City agrees that Consultant shall not be liable for claims, liabilities or losses arising out of, or connected with (a) the modification or misuse by the City, or anyone authorized by the City, of CADD files; (b) the decline of accuracy or readability of CADD files due to inappropriate storage conditions or duration; or (c) any use by the City, or anyone authorized by the City, of CADD files for additions to this Project, for the completion of this project by others, or for any other project, excepting only such use as is authorized, in writing, by Consultant.

### **Schedule**

The kick-off meeting, data gathering, and 30 percent design (Tasks 200, and 300) shall be completed within 75 calendar days following the Notice to Proceed from the City. The 60 percent design (Task 400) shall be completed within 30 calendar days following approval of 30 percent design submitted in Task 200. The 90 percent and final design (Task 500) shall be completed within 30 calendar days following City approval of the 60 percent design plans in Task 400. Depending upon the agencies, the permits are anticipated to be obtained within 45 calendar days following City's approval of the final design documents in Task 400.

**Project Budget**

Street Improvements at Railroad Crossings  
along California Avenue Corridor of SJVRC at  
Cedar, Maple, and Chestnut Avenues

City of Fresno  
Public Works  
Mr. Mark M. Johnson

Task Description	Personnel Hours							Budget			
	Principal Engineer	Senior Engineer II	Assist Engr II	Engr Tech	CAD Designer	CAD Sprvr	Tech Typist	Total Hours	Labor	Non-Labor Fee	Total
<b>100 - Project Management</b>											
101 Develop and Maintain Schedule	4	8					8	20	\$ 2,560		\$ 2,560
102 Project Management	4	12					8	24	\$ 3,160		\$ 3,160
<b>Subtotal</b>	<b>8</b>	<b>20</b>					<b>16</b>	<b>44</b>	<b>\$ 5,720</b>		<b>\$ 5,720</b>
<b>200 - Kick-off and Data Gathering</b>											
201 Kick-Off/Scoping Meeting - City											
202 Coordination w/City's Surveyor - Boundary/Topo surveys, R/W research		4	4				1	9	\$ 1,030	\$ 100	\$ 1,130
203 Data Gathering and Agency Coordination		2	8		8		2	20	\$ 1,816	\$ 200	\$ 2,016
City of Fresno Public Works - W, SS											
City of Fresno Public Works - Ultimate Plan Lines		1	4	4	1		1	11	\$ 922	\$ 100	\$ 1,022
City of Fresno Public Works - Traffic		1	4	4	1		1	11	\$ 922	\$ 100	\$ 1,022
San Joaquin Valley Railroad - SJVRC railroad		1	4	3	1		1	9	\$ 787	\$ 100	\$ 887
Interstate Mgmt Group - SJVRC railroad Permitting		1	4		2			7	\$ 674	\$ 100	\$ 774
Quality Signal Const. - Railroad Signals		2	4		2			8	\$ 824	\$ 100	\$ 924
CPUC - Permitting		1	4				1	6	\$ 580	\$ 100	\$ 680
FMFCD - SD		2	4	4	2		1	13	\$ 1,154	\$ 100	\$ 1,254
FID - Irrigation		1	2	4	1		1	9	\$ 742	\$ 100	\$ 842
Utility companies: PG&E, AT&T, Comcast		1	4	4	1		1	11	\$ 922	\$ 100	\$ 1,022
204 Review and Summarize Data and ID Potential Conflicts		4	4	4	2	1	1	16	\$ 1,556	\$ 100	\$ 1,656
<b>Subtotal</b>		<b>22</b>	<b>54</b>	<b>31</b>	<b>22</b>	<b>1</b>	<b>11</b>	<b>141</b>	<b>\$ 12,851</b>	<b>\$ 1,400</b>	<b>\$ 14,251</b>
<b>300 - 30% Schematic Design Plans</b>											
301 Prepare base map											
Cedar Avenue Crossing		2	4		12			18	\$ 1,644	\$ 100	\$ 1,744
Maple Avenue Crossing		2	4		12			18	\$ 1,644	\$ 100	\$ 1,744
Chestnut Avenue Crossing		2	4		12			18	\$ 1,644	\$ 100	\$ 1,744
302 Show Utility data - Existing at											
Cedar Avenue Crossing		1	2	1	4			8	\$ 723	\$ 100	\$ 823
Maple Avenue Crossing		1	2	1	4			8	\$ 723	\$ 100	\$ 823
Chestnut Avenue Crossing		1	2	1	4			8	\$ 723	\$ 100	\$ 823
303 Show Utility data - Proposed at											

**Project Budget**

**Street Improvements at Railroad Crossings  
along California Avenue Corridor of SJVRC at  
Cedar, Maple, and Chestnut Avenues**

City of Fresno  
Public Works  
Mr. Mark M. Johnson

Task Description	Personnel Hours								Budget		
	Principal Engineer	Senior Engineer II	Assist Engr II	Engr Tech	CAD Designer	CAD Sprvr	Tech Typist	Total Hours	Labor	Non-Labor Fee	Total
Chestnut Avenue Crossing - Storm Drain		2	2		4			8	\$ 808	\$ 100	\$ 908
304 Coordination meeting - completed base map - all	2	4	4				2	12	\$ 1,500	\$ 100	\$ 1,600
305 Summarize design requirements		2	2				2	6	\$ 620	\$ 100	\$ 720
305 Prepare Schematic Geometric Plans (30% Plans)		8	16		16	2		42	\$ 4,156	\$ 300	\$ 4,456
306 Submit 30% plans			2		2		2	6	\$ 484	\$ 100	\$ 584
307 City review								-	\$ -	\$ -	\$ -
<b>Subtotal</b>	<b>2</b>	<b>25</b>	<b>44</b>	<b>3</b>	<b>70</b>	<b>2</b>	<b>6</b>	<b>152</b>	<b>\$ 14,669</b>	<b>\$ 1,300</b>	<b>\$ 15,969</b>
<b>400 - 60% Plans, Technical Specifications, and Estimates</b>											
401 Address 30% Plans comments	2	2	4		12		1	19	\$ 1,714	\$ 200	\$ 1,914
402 Coordination meeting - addressed 30% Plans - City	2	3						5	\$ 850	\$ 100	\$ 950
403 Coordination with Quality Signal Const		1	4				1	6	\$ 580	\$ 100	\$ 680
404 Coordination with SJVRC		1	4				1	6	\$ 580	\$ 100	\$ 680
405 Coordination with Interstate Mngmt Group / SJVRC		2	6				1	9	\$ 910	\$ 100	\$ 1,010
406 Prepare plans (P&P, Striping and Signing, and Details)						2		2	\$ 204	\$ 100	\$ 304
Cedar Avenue Crossing		4	12		16		1	33	\$ 3,062	\$ 200	\$ 3,262
Maple Avenue Crossing		4	12		16		1	33	\$ 3,062	\$ 200	\$ 3,262
Chestnut Avenue Crossing		4	12		16		1	33	\$ 3,062	\$ 200	\$ 3,262
407 Prepare technical specifications	2	12	24				8	46	\$ 4,920	\$ 300	\$ 5,220
408 Prepare opinion of probable construction cost estimates								-	\$ -	\$ -	\$ -
Cedar Avenue Crossing		2	8		4			14	\$ 1,348	\$ 100	\$ 1,448
Maple Avenue Crossing		2	8		4			14	\$ 1,348	\$ 100	\$ 1,448
Chestnut Avenue Crossing		2	8		4			14	\$ 1,348	\$ 100	\$ 1,448
409 Coordinate and show FMIFCD SD plan - Chestnut Avenue crossing		1	1		2		4	6	\$ 404	\$ -	\$ 404
410 Submit 60% PS&E			2		2		2	6	\$ 484	\$ 100	\$ 584
411 City review								-	\$ -	\$ -	\$ -
<b>Subtotal</b>	<b>4</b>	<b>40</b>	<b>105</b>	<b>-</b>	<b>76</b>	<b>2</b>	<b>17</b>	<b>244</b>	<b>\$ 23,876</b>	<b>\$ 2,000</b>	<b>\$ 25,876</b>
<b>500 - 90% &amp; Final Plans, Technical Specifications, and Estimates</b>											
501 Address 60% Plans comments		4	8		8			20	\$ 1,976	\$ 200	\$ 2,176
502 Coordination meeting - addressed 60% Plans - City	2	3						5	\$ 850	\$ 100	\$ 950
503 Coordination with Quality Signal Const		1	4		1			6	\$ 592	\$ 100	\$ 692

**Project Budget**

**Street Improvements at Railroad Crossings  
along California Avenue Corridor of SJVRC at  
Cedar, Maple, and Chestnut Avenues**

City of Fresno  
Public Works  
Mr. Mark M. Johnson

Task Description	Personnel Hours						Total Hours	Labor	Budget		Total	
	Principal Engineer	Senior Engineer II	Assist Engr II	Engr Tech	CAD Designer	CAD Sprvr			Tech Typist	Non-Labor Fee		
504 Coordination with SJVRC	1	2						330			\$ 330	
505 Prepare plans (P&P, Striping and Signing, and Details)											\$ -	
Cedar Avenue Crossing			8	12				2,004	200		\$ 2,204	
Maple Avenue Crossing			8	12				2,004	200		\$ 2,204	
Chestnut Avenue Crossing			8	12				2,004	200		\$ 2,204	
506 Prepare technical specifications	2	6	12				4	2,660	200		\$ 2,860	
507 Prepare opinion of probable construction cost estimates											\$ -	
Cedar Avenue Crossing	1	4						510	100		\$ 610	
Maple Avenue Crossing	1	4						510	100		\$ 610	
Chestnut Avenue Crossing	1	4						510	100		\$ 610	
508 Incorporate FMFCD master planned facilities and grades - Chestnut Avenue crossing			2	4			2	798			\$ 798	
509 In-house quality control - plans, specifications, and estimate	8		4				2	1,600	100		\$ 1,700	
510 Submit 90% PS&E							4	844	100		\$ 944	
511 City review											\$ -	
512 Address 90% Plans comments	1	2	8	8				1,876	200		\$ 2,076	
513 Finalize PS&E Cedar and Avenue Crossings and "shelf ready" Maple Avenue Crossing	1	2	12	16			2	3,032	200		\$ 3,232	
514 Submit originals, obtain signatures			4				4	790	100		\$ 890	
515 Coordination with Interstate Mgmt. Group - Permit			2				4				\$ -	
516 Coordination with CPUC - prepare GO No. 88-B ready to submit			3				2	1,130	100		\$ 1,230	
517 Coordination with OSHA - underground classifications permit			1				2	470	100		\$ 570	
<b>Subtotal</b>	<b>14</b>	<b>36</b>	<b>102</b>	<b>73</b>	<b>2</b>	<b>24</b>	<b>74</b>	<b>25,250</b>	<b>2,500</b>		<b>\$ 27,750</b>	
<b>Total</b>	<b>28</b>	<b>143</b>	<b>305</b>	<b>241</b>	<b>7</b>	<b>74</b>	<b>832</b>	<b>82,366</b>	<b>7,200</b>		<b>\$ 89,566</b>	

Amounts shown are fee.

## BOYLE ENGINEERING CORPORATION

### FEES FOR PROFESSIONAL SERVICES HOURLY RATE SCHEDULE

Effective August 1, 2006

<u>CLASSIFICATION</u>	<u>RATE</u>
<b>Engineering</b>	
Engineering Technician	\$ 65.00 per hour
Assistant Engineer I	\$ 75.00 per hour
Assistant Engineer II	\$ 90.00 per hour
Associate Engineer	\$107.00 per hour
Senior Engineer I	\$125.00 per hour
Senior Engineer II	\$150.00 per hour
Principal Engineer	\$180.00 per hour
Managing Engineer	\$200.00 per hour
Officer	\$215.00 per hour
<b>Designing/Drafting</b>	
CADD Operator/Drafter	\$ 60.00 per hour
Design CADD Operator	\$ 82.00 per hour
Design CADD Supervisor	\$102.00 per hour
<b>General Project Expenses</b>	8% of Labor Fee
Includes mail, telephone, cell phones, fax, office photocopies, general printing, plotting, personal computer use, and miscellaneous mileage (except as noted).	
<b>Miscellaneous</b>	
Clerical I	\$ 45.00 per hour
Clerical II	\$ 65.00 per hour
Technical Typist/Word Processor	\$ 70.00 per hour
Off-Site Printing and Blueprinting	Actual cost + 15%
Travel - Other than automobile	Actual cost + 15%
Materials Testing and In-Plant Inspection	Actual cost + 15%
Aerial Photogrammetry Service and Surveys	Actual cost + 15%
Soils Investigation and Field Tests	Actual cost + 15%
Subconsultant Services	Actual cost + 15%

It is understood and agreed that these rates and charges include normal equipment and materials used in connection with the production of the required engineering and/or architectural services. If authorized by the client, an overtime premium multiplier of 1.5 will be applied to the direct wage cost of hourly personnel who work overtime in order to meet a deadline which cannot be met during normal hours. Applicable sales taxes, if any, will be added to these rates.

Boyle Engineering Corporation will typically furnish monthly billings for all services rendered and supplies furnished in accordance with the above compensation provisions. Payments shall be due and payable to Boyle Engineering Corporation upon presentation. A late payment finance charge of 1.5 percent per month (but not exceeding the maximum rate allowable by law) will be applied to any unpaid balance commencing thirty (30) days after the date of the original invoice.

Fee schedule is subject to general revision. New equipment categories and charges may be added or revised from time to time.