

**OAK PARK UNIFIED SCHOOL DISTRICT
5801 E. CONIFER STREET
OAK PARK, CALIFORNIA 91377
(818) 735-3206**

ADDENDUM BOARD MEETING – AGENDA #901

DATE: Tuesday, November 18, 2014
TIME: 6:00 p.m. Open Session
PLACE: Oak Park High School
Presentation Room-G9
899 Kanan Road
Oak Park, CA 91377

CLOSED SESSION

D. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (One case) (Tort claim regarding violation of First Amendment rights, violation of California Article 1, Section 13, violation of Education Code 48907, etc.)

CONSENT AGENDA

1. m. Approve Agreement for Testing and Inspection Services for Project 14-29F, Solar Shade Structure Installation at Oak Park High School

Board Policy 3312 requires Board approve for contracts for services

Date: November 14, 2014

Anthony W. Knight, Ed.D.
Superintendent and Secretary to the
Board of Education

TO: MEMBERS, BOARD OF EDUCATION
FROM: DR. ANTHONY W. KNIGHT, SUPERINTENDENT
DATE: NOVEMBER 18, 2014
SUBJECT: C.1.m. APPROVE AGREEMENT FOR TESTING AND INSPECTION SERVICES FOR PROJECT 14-29F, SOLAR SHADE STRUCTURE INSTALLATION AT OAK PARK HIGH SCHOOL

CONSENT

ISSUE: Shall the Board approve an agreement for testing and inspection services for Project 14-29F, Solar Shade Structure Installation at Oak Park High School?

BACKGROUND: At its meeting on June 17, 2014, the Board approved a contract with SK Solar, Inc. for the fabrication and installation of a solar shade structure at Oak Park High School. Accepted as a turnkey project, the approved contract included required architectural design and fabrication test and inspection services. However, the Division of the State Architect (DSA) has recently changed its regulations, prohibiting a contractor from employing the test and inspecting laboratory, holding that this service must be contracted directly with the school district. Accordingly, District staff requested the attached proposal from BTC Labs – Vertical 5 who has performed these services for the District’s various construction projects over the last five years. The proposal outlines the required services, which will be performed on a time-and-materials basis at an estimated cost of \$11,133.00. Upon the project’s completion and when the actual cost of these services is established, the District’s contract with SK Solar will be adjusted appropriately. It is the recommendation of staff and construction manager Balfour Beatty Construction that the Board accept the proposal from BTC Labs – Vertical 5 for testing and inspection services for this project.

- ALTERNATIVES:**
1. Approve an agreement with BTC Labs – Vertical 5 for testing and inspection services, on a time-and-materials basis as proposed, in connection with Project 14-29F, Solar Shade Structure Installation at Oak Park High School?
 2. Do not approve an agreement with BTC Labs – Vertical 5.

RECOMMENDATION: Alternative No. 1

Prepared by: Martin Klauss, Assistant Superintendent, Business and Administrative Services

Respectfully submitted,

 Anthony W. Knight, Ed.D.
 Superintendent

Board Action: On motion of _____, seconded by _____, the Board of Education:

VOTE:	AYES	NOES	ABSTAIN	ABSENT
Hazelton	_____	_____	_____	_____
Laifman	_____	_____	_____	_____
Pallant	_____	_____	_____	_____
Rosen	_____	_____	_____	_____
Yeoh	_____	_____	_____	_____
Student Rep	_____	_____	_____	_____



BTCLABS - VERTICALFIVE

November 12, 2014

Proposal No: 2014.06.0213
DSA App. No.: 03-115823
File No.: 56-H10

Oak Park Unified School District
5801 E. Conifer St.
Oak Park, CA 91377

ATTENTION: Martin Klauss

SUBJECT: **Oak Park High School - Solar Photovoltaic Project, 899 Kanan Rd., Oak Park**

BTC LABS - Vertical Five is pleased to submit this proposal for the referenced project. Our estimated scope of services and estimated costs are detailed below.

Scope of Work and Cost Estimate

	<u>Rate</u>		<u>Units</u>		<u>Total</u>
Soils:					
Sr. Soils Technician with nuclear guage	\$ 88.00	hr	24	\$	2,112.00
Maximum Density (soil)	\$ 175.00	ea	1	\$	175.00
Engineer	\$ 155.00	hr	4	\$	620.00
Concrete:					
Concrete Batch Plant Inspection	\$ 86.00	hr	8	\$	688.00
Concrete Technician (cast cylinders, slump & temperature)	\$ 86.00	hr	8	\$	688.00
Concrete compression tests (4 cyls. per set / \$25. per cyl.)	\$ 25.00	ea	12	\$	300.00
Concrete cylinder pickup (4 cyls. per set / \$9.50 per cyl.)	\$ 9.50	ea	12	\$	114.00
Reinforcing Steel:					
Reinforcing Steel Bend tests rebar (#6 & 7)	\$ 45.00	ea	2	\$	90.00
Reinforcing Steel Tensile tests rebar (#6 & 7)	\$ 45.00	ea	2	\$	90.00
Reinforcing Steel sampling (2 hr. min.) - <i>location Fremont, CA</i>	\$ 86.00	hr	8	\$	688.00
Structural Steel:					
Shop Welding Inspection (including Material ID, obtain welder certs and weld procedures) - <i>location Phoenix, Arizona</i>	\$ 86.00	hr	24	\$	2,064.00
Field Welding Inspection	\$ 86.00	hr	12	\$	1,032.00
High Strength Bolt Inspection	\$ 86.00	hr	12	\$	1,032.00
High Strength Bolt Testing, Nuts & Washers - (proof, hardness, ultimate load test - 3 of ea. per set)	\$ 335.00	set	2	\$	670.00
Miscellaneous:					
Laboratory Verified Report (DSA-291)	\$ 385.00	ea	1	\$	385.00
Geotech Verified Report (DSA-293)	\$ 385.00	ea	1	\$	385.00
TOTAL:				\$	11,133.00

Notes:

- 1 Proposal is based on information provided by Client's representatives.
- 2 California prevailing wages apply.
- 3 Services will be performed in accordance with the accompanying "Terms and Conditions".
- 4 Added charges will be charged in accordance with the attached Reduced for OPUSD - 2013 Schedule of Fees.

BTC Labs appreciates the opportunity to be of service. If you have any questions, please do not hesitate to contact us.

Respectfully Submitted,
BTC LABS - Vertical Five

Reviewed By,



Carol Harrison
Marketing Manager



Scott Moors, CEG 1901
President

Attachments: Terms and Conditions & Agreement
 Reduced OPUSD 2013 Schedule of Fees

**AGREEMENT FOR CONSULTING &
RELATED CONSTRUCTION INSPECTION AND MATERIALS TESTING SERVICES**

THIS AGREEMENT is by and between: Oak Park Unified School District, 5801 E. Conifer St., Oak Park, CA 91377, Attn: Martin Klauss, Phone: (818) 735-3254, Email: mklauss@oakparkusd.org, hereinafter called CLIENT and Testing Engineers Vertical V, Inc. (dba **BTC LABS – Vertical Five**), 1868 Palma Drive, Suite A, Ventura, CA 93003; (805) 656-6074; hereinafter called CONSULTANT, who agree as follows:

1. **DECLARATIONS.** CLIENT desires to engage CONSULTANT to provide services described in Section 2 (below) in connection with CLIENT's project ("PROJECT") described as follows: Oak Park High School Solar Photovoltaic Project, DSA # 03-115823
2. **SCOPE OF SERVICES.** CONSULTANT shall provide the services described below in accordance with the accompanying "TERMS and CONDITIONS" made a part of this agreement.
 - See BTC Labs Proposal No. 2014.06.0213, dated 11/12/2014
3. **FEES FOR SERVICES.** Fee and payment terms as indicated:
 - TIME & MATERIALS:** CONSULTANT will provide services described in '2' above on a Time and Materials Basis in conformance with the attached Fee Schedule and Terms and Conditions.
 - TIME & MATERIALS – Estimate with Deposit:** CONSULTANT will provide services described in Section 2 above on a Time and Materials Basis in conformance with the attached Fee Schedule and Terms and Conditions. A COD deposit is required in the amount of: _____
 - LUMP SUM:** CONSULTANT will provide Services indicated above for a Lump Sum Fee of \$____ in conformance with the attached Terms and Conditions. Additional services shall be provided in accordance with the attached Fee Schedule.
4. **PAYMENT TERMS:** Payment terms shall be as indicated below and consistent with the attached Terms.
 - COD:** Client shall pay the amount indicated above prior to initiation of services.
 - Net 30 Days:** Client shall pay in accordance with Section 19 of the attached Terms & Conditions.
5. **PREVAILING WAGE REQUIREMENT:**
 - REQUIRED:** California Prevailing Wages are REQUIRED for this project.
 - NOT REQUIRED:** California Prevailing Wages are NOT required for this project. *If a subsequent requirement for payment of Prevailing Wages is determined, CLIENT will indemnify and reimburse CONSULTANT for all additional related costs.*

EXECUTED THIS _____ day of _____, 2014.

Please sign both original copies of this agreement and return by mail. If your project is to be scheduled within 2 weeks, please FAX one signed copy to our office ASAP (Fax: 805-650-6264). This signed agreement must be received at BTC Labs prior to services being rendered.

By: **BTC LABS – VERTICAL FIVE**

CLIENT

D. Scott Moors
Vice President

Date

Signature

Date

Print Name and Business Title

Attachments: 2013 OPUSD Fee Schedule
NV5 Standard Terms and Conditions [2011 NV5, Inc.]

STANDARD TERMS AND CONDITIONS

1. The Agreement. This Agreement between the parties, which shall describe and govern Client's engagement of "Consultant" to provide services ("Services") in connection with the project ("Project") identified in the proposal ("Proposal"), consists of the Proposal, these terms and conditions, Consultant's fee schedule, and any exhibits or attachments referenced in any of these documents. Together these elements constitute the entire agreement between the parties, superseding any and all prior negotiations, correspondence, or agreements, either written or oral, with respect to the subject matter of this engagement. This Agreement shall be interpreted as though prepared by all parties and shall not be construed unfavorably against either party.

2. Standard of Care. The Services shall be performed in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant's profession currently practicing under similar conditions and in the same locality as the Project. Data, interpretations and recommendations by Consultant will be based solely on information discovered by, or made available to, consultant during the course of the engagement. In connection with such information, Client recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or explorations are made, and that site conditions may change over time. Consultant shall not be responsible for the use or interpretation of such information by non-parties to this Agreement. Consultant shall not be held liable for problems that may occur if Consultant's recommendations are not followed.

3. Site Access and Conditions. Client will provide Consultant access to the Project site for all equipment and personnel necessary for the performance of the Services. As required to effectuate such access, Client will notify all owners, lessees, contractors, subcontractors, and other possessors of the Project site that Consultant must be allowed free access to the site. While Consultant agrees to take reasonable precautions to minimize damage to the site, Client understands that, in the normal course of performing the Services, some damage may occur, and further understands that Consultant is not responsible for the correction of any such damage unless so specified in the Proposal. Client is responsible for the accuracy of locations for all subterranean structures and utilities. Consultant will take reasonable precautions to avoid known subterranean structures and utilities, and Client waives any claim against Consultant, and agrees to defend, indemnify, and hold Consultant harmless from any claim or liability for injury or loss of any party, including costs of defense, arising from damage done to subterranean structures and utilities not identified or accurately located. In addition, Client agrees to compensate Consultant for any time spent or expenses incurred by Consultant in defense of any such claim with compensation to be based upon Consultant's prevailing fee schedule and expense reimbursement policy.

4. Cooperation and Project Understanding. To the extent requested by Consultant, Client will make available to Consultant all information in its possession regarding existing and proposed conditions at the site. Such information shall include, but not be limited to engineering reports, plot plans, topographic surveys, hydrographic data, soil data including borings, field and laboratory tests and written reports. Client shall immediately transmit to Consultant any new information concerning site condition which becomes available, and any change in plans or specifications concerning the Project to the extent such information may affect Consultant's performance of the Services. Client agrees, upon 24 hours oral or written notice, to provide a representative at the job site to supervise and coordinate the Services. Consultant shall not be liable for any inaccurate or incorrect advice, judgment or decision which is based on any inaccurate information furnished by Client and Client shall indemnify Consultant against claims, demands, or liability arising out of, or contributed to, by such inaccurate information.

5. Sample Disposal. Unless other arrangements are made, Consultant will dispose of all soil and rock samples remaining at the time of report completion. Further storage or transfer of samples can be arranged at Client's prior written request, subject to a reasonable charge by Consultant. Client acknowledges that contaminated drill cuttings, sample spoils, wash water, and other materials may be produced as a result of encountering hazardous materials at the site. In such event, Consultant shall properly contain, label, and store such materials on-site, and Client shall be responsible for its proper transportation and disposal. Consultant may be able to arrange for the transportation and disposal of hazardous materials at Client's request.

6. Construction Monitoring. If Consultant is engaged by Client to provide a site representative for the purpose of monitoring specific portions of any construction work, as set forth in the proposal, then this Section 6 shall apply. If Consultant's engagement does not include such construction monitoring, then this Section shall be null and void. In connection with construction monitoring, Consultant will report observations and professional opinions to Client. Consultant shall report to Client any observed work which, in Consultant's opinion, does not conform to plans and specifications. Consultant shall have no authority to reject or terminate the work of any agent or contractor of Client. No action, statements, or communications of Consultant, or Consultant's site representative, can be construed as modifying any agreement between Client and others. Consultant's presence on the Project site in no way guarantees the completion or quality of the performance of the work of any party retained by Client to provide construction related services. Neither the professional activities of Consultant, nor the presence of Consultant or its employees, representatives, or subcontractors on the Project Site, shall be construed to impose upon Consultant any responsibility for methods of work performance, supervision, sequencing of construction, or safety conditions at the Project site. Client acknowledges that Client its general contractor or construction manager is solely responsible for job site safety, and warrants and agrees that such responsibility shall be made evident in any Project owner's agreement with the general contractor. Client also agrees to make Consultant an additional insured under any general contractor's general liability insurance policy. Prior to the commencement of the Work, Client shall provide Consultant with a certificate of insurance evidencing the required insurance. Such certificates shall be issued by an insurance carrier(s) acceptable to Consultant and shall be endorsed to include: (1) Consultant as additional insured; and (2) a waiver of subrogation as to Consultant. This insurance shall be primary to any insurance available to Consultant. In the event Consultant expressly assumes any health and safety responsibilities for hazardous materials or other items specified in this Agreement, the acceptance of such responsibility does not and shall not be deemed an acceptance of responsibility for any other health and safety requirements, such as, but not limited to, those relating to excavation, trenching, drilling or backfilling.

7. Project Changes. In the event Client, the Project owner, or other party makes any changes in the plans and specifications, Client agrees to hold Consultant harmless from any liability arising out of such changes, and Client assumes full responsibility unless Client has given Consultant prior notice and has received Consultant's written consent for such changes.

8. Ownership of Documents. All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents prepared by Consultant in connection with this engagement, shall remain the property of Consultant. Client agrees that all reports, or other material furnished to Client or its agents for which Client has not paid will be returned upon demand and will not be used by Client or others for any purpose whatsoever. Unless otherwise required by law, Consultant will retain all pertinent records relating to the Services performed for a period not exceeding (10) ten years after final payment, during which period the records will be made available to Client at all reasonable times and an administrative fee may be charged to the Client for retrieval and reproduction of such records.

9. Termination. This Agreement may be terminated without cause by either party upon thirty (30) days written notice, and at any time by either party if the other party defaults in the performance of any material provision of this Agreement and such default continues for a period of seven (7) days after written notice thereof. In the event of termination, Consultant will be paid for services performed through the date of termination, plus reasonable termination expenses, including the cost of completing analyses, demobilization, records and reports necessary to document job status at the time of termination.

10. Indemnity. Consultant shall indemnify and hold harmless Client from and against losses, liabilities, and reasonable costs and expenses for property damage and bodily injury (including reasonable attorney's fees), to the extent directly and proximately arising from Consultant's negligent performance of services or breach of warranty under this Agreement. Client shall defend, indemnify and hold harmless Consultant, its employees, directors, officers, and agents, from and against any and all claims, losses, liabilities, and reasonable costs and expenses (including reasonable attorney's fees) that are: i) related to, or caused in any way by, the negligence or willful misconduct of Client, its employees, or agents; ii) related to this Agreement or the work to be performed by Consultant for which Consultant is not expressly responsible; or iii) the expressed responsibility of the Client under this Agreement.

11. Risk Allocation and Limitation of Liability. To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of the Consultant, and its officers, directors, partners, employees, agents and sub-consultants, and any of them, to the Client and anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages of any nature whatsoever arising out of, resulting from or in any way related to the project or the agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract or warranty, express or implied, of the Consultant, and its officers, directors, employees, agents or sub-consultants, or any of them, shall not exceed the total compensation received by the Consultant, for services provided under this Agreement, or the total amount of \$50,000.00, whichever is less. Client agrees that Consultant shall not be responsible for the means, methods, procedures performance, site safety of the construction contractors or subcontractors, or for their errors or omissions. Client agrees that the work created pursuant to this Agreement is for the sole and exclusive use of Client and is not for the benefit of any third parties. This Agreement and the services to be performed hereunder shall in no way be construed as a guarantee of deficient-free construction.

12. Discovery of Unanticipated Hazardous Materials. Client warrants that it has made reasonable efforts to inform Consultant of known or suspected hazardous materials on or near the Project site. The parties acknowledge that hazardous materials may exist at a site where there is no reason to believe they are present. Consultant and Client agree that the discovery of such unanticipated hazardous materials constitutes a changed condition which may require either a re-negotiation of the scope of Consultant's Services or termination of such Services or this Agreement. Consultant agrees to notify Client as soon as practicable should hazardous materials be encountered at the site. Client agrees that in the event of the discovery of hazardous materials at the site it will report such discovery to the proper authorities as required by Federal, State, and local regulations. Client agrees to make the required report at the recommendation of Consultant, or, if unable to do so, authorizes Consultant to make such report. Client also agrees to inform the Project site owner in the event that hazardous materials are encountered at the site. Notwithstanding any other provision of this Agreement, Client waives any claim against Consultant, and to the maximum extent permitted by law, agrees to defend, indemnify, and save Consultant harmless from any claim, liability and/or defense costs for injury or loss arising from the presence of hazardous materials on the project site, including any costs created by delay of the project and any costs associated with possible reduction of the property's value. Client is responsible for ultimate disposal of any samples secured by Consultant which are found to be contaminated.

13. Subsurface Conditions. Consultant cannot know or guarantee the exact composition of a site's subsurface, even after conducting a comprehensive exploratory program. Client acknowledges that there is a risk that drilling and sampling may result in contamination of certain subsurface areas. Although Consultant will take reasonable precautions to avoid such an occurrence, Client waives any claim against, and agrees to defend, indemnify and save Consultant harmless from any claim or liability for injury or loss which may arise as a result of subsurface contamination caused by drilling, sampling, or monitoring well installation. Client also agrees to adequately compensate Consultant for any time spent and expenses incurred in defense of any such claim.

14. Insurance. Consultant shall not (1) post a bond, (2) insure, or (3) indemnify Client against losses caused from the acts or omissions of other Contractors or Subcontractors that are not under contract to perform work for Consultant. Client shall require other Contractors and Subcontractors to carry adequate insurance coverage and any performance for Client to insure and indemnify Consultant against claims for damages and to insure compliance or work performance and materials with Project requirements.

15. Resolution of Disputes. All claims, disputes, controversies or matters in question arising out of, or relating to, this Agreement or any breach thereof, including but not limited to disputes arising out of alleged design defects, breaches of contract, errors, omissions, or acts of professional negligence, (collectively "Disputes") shall be submitted to mediation before and as a condition precedent to pursuing any other remedy. Upon written request by either party to this Agreement for mediation of any dispute, Client and Consultant shall select a neutral mediator by mutual agreement. Such selection shall be made within ten (10) calendar days of the date of receipt by the other party of the written request for mediation. In the event of failure to reach such agreement or in any instance when the selected mediator is unable or unwilling to serve and a replacement mediator cannot be agreed upon by Client and Consultant within ten (10) calendar days, a mediator shall be chosen as specified in the Mediation Rules of the American Arbitration Association then in effect, or any other appropriate rules upon which the parties may agree. Any cause of action brought against Consultant shall be brought within one year of the work or services performed under this Agreement. Should either party to this Agreement commence any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.

16. Assigns. Client may not assign this Agreement or any right or obligation hereunder without the prior written consent of Consultant, which shall not be unreasonably withheld or delayed; provided, however, that no consent shall be necessary in the event of an assignment to a successor entity resulting from a merger, acquisition or consolidation by either party or an assignment to an Affiliate of either party if such successor or Affiliate assumes all obligations under this Agreement.

17. Non-Solicitation & Hiring of Employees. To promote an optimum working relationship, the Client agrees in good faith not to directly or indirectly employ or otherwise engage any employee of Consultant or any person employed by Consultant within the prior twelve month period without the prior written consent of Consultant. This restriction shall apply during the term of and for a period of one (1) year after the termination of this Agreement. The Client further agrees that loss of any such employee would involve considerable financial loss of an amount that could not be readily established by Consultant. Therefore, in the event that Client should breach this provision and without limiting any other remedy that may be available to Consultant, the Client shall pay to Consultant a sum equal to the employee's current annual salary plus twelve (12) additional months of the employee's current annual salary for training of a new employee as liquidated damages.

18. Governing Law and Survival. The validity of this Agreement, these terms, their interpretation and performance shall be governed by the laws of the State in which the Project is located. If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability, indemnification, and non-solicitation & hiring of employees shall survive the termination of this Agreement for any reason. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term contained in this Agreement shall be effective unless in writing and signed by the waiving party, and no waiver in any one or more instances shall be deemed to be a continuing waiver of any such condition or breach in other instance or a waiver of any other condition or breach of any other term.

19. Billing and Payment. Client shall pay Consultant the lump sum amount indicated in the Proposal, or, if no lump sum amount is indicated, in accordance with the schedule of fees or charges as shown in the Proposal or fee schedule. Backup data on billing will not be available unless prior arrangements have been made. Prior to initiation of the Services, Client is required to remit any retainer specified in the Proposal. Thereafter, Consultant will submit to Client invoices for the balance due, which shall be due and payable immediately upon submission. If Client objects to all or any portion of any invoice, Client will so notify Consultant in writing within ten (10) calendar days of the invoice date, identify the cause of disagreement, and immediately pay that portion of the invoice not in dispute. In the absence of written notification described above, the balance as stated on the invoice shall be deemed accepted. Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. In such event, Client shall pay an additional charge of one and one-half (1.5) percent per month (or the maximum percentage allowed by law, whichever is lower) on any delinquent amount. Payment thereafter will first be applied to accrued interest and then to the principal unpaid amount. Consultant shall be entitled to recover for all costs and expenses incurred (including any attorney's fees) in connection with collection of any delinquent amount. Fee schedules are periodically revised. Unless otherwise agreed, new rates apply to ongoing work as such rates are issued. Should Consultant be called upon to testify for or on behalf of the Client on matters arising out of or related to the Work, Client shall compensate Consultant for its time at a rate of two times (2x) the Consultant's standard billing rates.

20. Waiver of Jury Trial. Each party waives its right to a jury trial in any court action arising between the parties, whether under this Agreement or otherwise related to the work being performed under this Agreement.

21. Liability for Others. Consultant shall not be responsible for the acts or omissions of the Client, architect, architect's other consultants, contractor, subcontractor, other third parties or their respective agents, employees, assigns, successors, or other persons performing any of the work. Consultant shall promptly notify Client if Consultant becomes aware of any inconsistencies in the services or information provided by other parties.

22. Delays. Consultant shall not be liable to Client for delays. Client shall indemnify, defend, and hold harmless Consultant from any actions or claims arising from delays.

23. Waiver. No waiver by a party of any condition or of any breach of any term contained in this Agreement shall be effective unless in writing and signed by the waiving party, and no waiver in any one or more instances shall be deemed to be a continuing waiver of any such condition or breach in other instance or a waiver of any other condition or breach of any other term.

24. Enforceability. This Agreement shall be interpreted by the parties in a manner that ensures this Agreement's compliance with applicable local, state, federal, or foreign laws. The parties affirm that this Agreement is a collaborative effort between Client and Consultant, with no single party considered the drafter of this Agreement or having the drafting of this document construed against them.

25. Severability. Should a court find one of the provisions of this Agreement unenforceable, the remaining provisions of this Agreement shall remain in full force and affect.

26. Entire Agreement. This Agreement represents the entire agreement between the parties. No other prior written or oral representations, negotiations, or discussions are part of this agreement. To the extent allowed by law, any agreement that as part of the scope of Consultant services is incorporated by reference into this agreement shall be subordinated to the terms and conditions of this agreement where they conflict.

Reduced for OPUSD – 2013 FEE SCHEDULE

GENERAL CONDITIONS

Testing Samples - An hourly preparation charge will be added to all samples submitted to the laboratory that are not ready for testing. There will be a 50% premium charge for "RUSH/PRIORITY" testing.

Scheduling - A minimum of 24-hour notice is required to schedule personnel (48-hour notice is required for DSA projects). For same-day scheduling, a 50% premium applies. If less than 24 hour notice is provided on a cancellation, a charge of 2 hours will be assessed.

Minimum Charges – Special Inspections: A minimum charge of 4 hours applies to inspection call-out between 0 and 4 hours. Additional work will be charged in 1 hour increments. ~~Eight (8) hours will be charged for work performed over 4 hours up to eight hours.~~ A 4-hour minimum charge shall apply to all cancellations after inspector has been dispatched. Travel time is not normally charged for inspections within 40 miles of the laboratory.

Technicians: A minimum charge of 2 hours applies to technician call-out between 0 and 2 hours. Additional time will be charged in 2-hour increments. Technician time is portal-to-portal from lab-to-site-to-lab. A 2-hour minimum charge shall apply to all cancellations after technician has been dispatched.

Overtime Rates - Rates are based on an 8-hour workday between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday. Work outside of these hours or in excess of 8 hours in one day or over 40 hours in one week will be charged at 1.5 times the listed rates. Work over 12 hours in one day or over 8 hours on the 7th consecutive day, or work on holidays will be charged at 2.0 times quoted rates.

Holidays - The following holidays are observed: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and the following Friday, and Christmas Day.

Should a holiday fall on Saturday or Sunday, the closest previous or following regular workday will be observed for the holiday.

Travel – Hourly travel is charged portal to portal for technicians. Travel charges are normally waived for inspectors within 40 miles of our laboratory. Mileage will be charged at \$0.65 per mile for all projects with a \$30 minimum charge per trip.

Per Diem – Per diem will be charged at 1.1 times the Federal (GSA) rate for all out-of-town assignments unless other arrangements are made.

Review & Distribution of Reports - All assignments are under the supervision of a Registered Professional Engineer. Engineering time of 0.1 hour per inspection day or 1/2-hour (min) will be included for scheduling, report review, and data evaluation. Up to hard 2 copies and 6 electronic copies of reports are provided at no additional charge. Additional hard copies will be billed at \$2 per report.

Outside Services / Subcontractors - Cost plus 15% will be charged for outside services and for any materials procured.

Prevailing Wage – Client agrees to notify the Laboratory, in writing, of any requirement for payment of California Prevailing Wages or other predetermined contract wage condition. Client agrees to indemnify BTC Labs – Vertical Five against all costs related Client's failure to notify Lab of predetermined wage requirements.

Certified Payroll – A \$45 per week, per project processing fee for Certified Payroll will be assessed on Prevailing Wage Projects.

Escalation – Listed rates are subject to annual escalation consistent with the Consumer Price Index (www.bls.gov). Prevailing Wage labor rates will be adjusted in accordance with DIR mandated increases plus 30%. (<http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>)

I. PROFESSIONAL, TECHNICAL, & SUPPORT STAFF

(Hourly rates unless otherwise indicated. Charges are portal-to-portal from/to BTC Labs)

A. Professional Staff		Standard
Principal Engineer/Geologist/Consultant		\$180
Senior Engineer/Geologist/Consultant (PE, CEG)		\$155
Project Engineer/Geologist/Consultant/Manager		\$130
Staff Engineer/Geologist/Consultant		\$105

B. Field Sampling, Inspection & Testing	Prevailing Wage	Standard
Special (Deputy) Inspector	\$86	\$78
(Concrete, P/T Concrete, Masonry, Welding, Bolting, Fireproofing)		
Concrete/Asphalt Batch Plant Inspection	\$86	\$78
ACI Concrete Technician	\$86	\$74
Senior Technician* (Soil/Asphalt/Special Testing)	\$88	\$78
Mechanical/Electrical Inspector	\$92	\$90
Roofing/Waterproofing Inspector	\$95	\$85
Nondestructive Exam/Testing (UT/Mag Part./Dye Pen.)	\$92	\$84
Trip Charge (within 25 radius of Lab; if >25 mi. hourly + mileage)		\$30

* Services such as: density by nuclear gauge, "Schmidt Hammer" readings, pachometer survey, torque tests and pull tests are performed by Senior Technicians.

C. DSA / OSPHD Inspection & Testing	Prevailing Wage / Standard
Project Inspector / IOR, DSA Class I	\$110
Project Inspector / IOR, DSA Class II/III	\$95
DSA Masonry / Shotcrete Inspection	\$90
DSA Form 5 (Inspector Qualifications)	\$45 ea.
Special Inspection Verified Report (SIVR/VR)	\$185 (min.) ea.
Laboratory / Geotechnical Verified Report	\$385 (min.) ea.

D. Sample Pickup & Delivery, Mileage	Prevailing Wage	Standard
Sample Pickup (>25mi. radius of Lab) – plus applicable unit price		\$55/hr
Field Equipment & Supply Delivery (1 hr min)		\$55/hr
Saturday Pickup (hourly, 4 hr minimum, plus mileage)		\$75/hr
Mileage – Field Vehicle (\$30/day minimum charge)		\$0.60/mi
Mileage – Coring Truck		\$0.70/mi

See Unit Prices for pickup charges of cylinders, prisms, panels, etc.

E. Support Staff & Special Services	Prevailing Wage	Standard
Laboratory Technician		\$85
File Search, Reissue of Report		\$45 (min.)
Certified Payroll Admin. (0.5 hr min./wk)		\$80
Court Appearance and Depositions (4 hr min)		\$295
Drafting/CADD		\$70
Clerical		\$60

II. MATERIALS AND EQUIPMENT

A. Equipment	Rate
1. Air Meter (Concrete)	\$45/day
2. Calibrated Ram (Pull test)	\$75/day
3. Ceiling Wire Dead-Weight Equip.	\$110/day
4. Concrete Relative Humidity Meter	\$265/day
5. Concrete Slab Moisture Emission Kit	\$55/ea
6. Floor Flatness (plus labor – 4hr min)	\$550/day
7. Generator	\$65/day
8. Ground Penetrating Radar (GPR) – (plus labor – 4 hr min)	\$385/dy
9. Magnetic Particle Equipment & Consumables	\$50/day
10. Nuclear Gauge	\$25/day
11. Pachometer (Rebar) Survey Equipment	\$85/day
12. Schmidt Hammer	\$35/day
13. Skidmore Wilhelm, per day	\$75/day
14. Torque Wrench (Large), per day	\$50/day
15. Torque Wrench (Small), per day	\$15/day
16. Ultrasonic Equipment & Consumables	\$60/day
17. Vehicle – Field Truck	\$55/day

B Diamond Coring (min. charge = field time w/travel + 1 hr. mob./demob.)	
1. Machine, truck & 1 operator (accessible flatwork only)	\$190/hr \$150/hr.
2. Machine, truck, operator and helper	\$275/hr 215/hr.
3. Coring Bit Charge	\$2/inch
4. Coring truck mileage (portal to portal)	\$0.70/mi
5. Traffic Control	Per Quote



III. LAB TESTS: AGGREGATE & SOIL

A Soils - Geotechnical

1. Atterberg Limits (LL and PL) – ASTM D4318, CTM 204	\$ 142
2. Consolidation (Incremental Loading) – ASTM D2435	\$ 315
3. Direct Shear, remolded sample – ASTM D3080	\$ 285
4. Direct Shear, undisturbed (ring) sample – ASTM D3080	\$ 235
5. Expansion Index – ASTM D4829	\$ 158
6. Hydrometer analysis (without specific gravity) – ASTM D422	\$ 132
7. Permeability, Constant Head – remolded - ASTM D2434, CT 220	\$ 360
8. pH (soil) – ASTM D4972	\$ 35
9. Resistivity – ASTM G57	\$ 60
10. Resistivity (Minimum), includes pH – CTM 643	\$ 155
11. Soil Cement – Moist.-Dens. or Sample Prep set of 3 - ASTM D558	\$ 240
12. Soil Cement – Wet-Dry Durability – ASTM D559	\$ 1100
13. Soil Cement – Compressive Strength – ASTM D1633	\$ 60
14. Soil Classification – ASTM D2488 – Visual-Manual	\$ 24
15. Soluble Chloride (soils)	\$ 75
16. Soluble Sulfate (soils)	\$ 75
17. Unconfined compression on prepared specimens	\$ 95

B Particle Size Analysis

18. Sand equivalent (ASTM 2419, CTM 217)	\$ 110
19. Sieve #200 wash only (ASTM D1140, CTM 202)	\$ 65
20. Sieve (coarse or fine only, no wash – ASTM C136, CTM 202)	\$ 85
21. Sieve (coarse & fine w/ wash – ASTM C136, CTM 202)	\$ 105
22. Sieve w/ Hydrometer (ASTM D422, CTM 203, no specific grav.)	\$ 165

C Moisture Density Relationship

23. Max. Density-Opt. Moisture (4 in. mold) – ASTM D1557, D698	\$ 175
24. Max. Density-Opt. Moisture (6 in. mold) – ASTM D1557, D698	\$ 195
25. Max. Density-Opt. Moist. w/ Rock Corr. – ASTM D1557, D4718	\$ 295
26. Maximum Density Checkpoint (4 in. mold)	\$ 65
27. Moisture & Dry Density (ring samples)	\$ 20
28. Moisture determination (aggregate samples)	\$ 35
29. Caltrans Relative Compaction (Wet Density) – CTM 216	\$ 225

D Aggregate, Soil & Rock

30. Abrasion Resistance by LA Rattler – ASTM C131, CTM 211	\$ 165
31. Absorption, sand or gravel – ASTM C127, C128	\$ 60
32. California bearing ratio (CBR) with expansion – ASTM D1883	\$ 365
33. California bearing ratio (CBR) at 95% (3 points) – ASTM D1883	\$ 585
34. Cement Treated Base (CTB), compact, cure & test	\$ 225
35. Cement Treated Base – compression (make, cure, test – 3 spec)	\$ 565
36. Cement Treated Base – stability	\$ 525
37. Clay lumps and friable particles, per primary size – ASTM C142	\$ 115
38. Cleanness Test – CTM 227	\$ 128
39. Crushed particles, per primary size	\$ 165
40. Durability Index (\$120 per size fraction) – CTM 229	\$ 215
41. Fine Aggregate Angularity – AASHTO T304	\$ 175
42. Flat & Elongated Particles (per bin size) – ASTM D4791	\$ 190
43. Lightweight pieces, per size fraction – ASTM C123	\$ 400
44. Lime content of treated materials (by titration)	
a. Lime content curve determination, for each material	\$ 395
b. Lime content, including untreated control sample	\$ 145
45. Mortar making properties of Sand ASTM C87	\$ 360
46. Mortar Properties – CTM 515	\$ 410
47. Organic Impurities – ASTM C40	\$ 75
48. Petrographic Analysis of Gravel – ASTM C295 (single grading)	\$ 450
49. Petrographic Analysis of WC Sand – ASTM C295 (pre-graded)	\$ 850
50. Potential Reactivity Test ASTM C289 Chemical Method	\$ 495
51. Potential Reactivity ASTM C227 Mortar Bar Method (3 month)	\$ 785
Each additional month	\$ 118
52. Potential Reactivity Test ASTM C1260 Rapid Method	\$ 589
53. Potential Reactivity ASTM C1293 Mortar Bar w/ Pozz. (12 month)	\$ 1600
Extend to 24-months add (C1293 requires Sp.Grav. & Unit Weight)	\$ 800
54. Potential Reactivity Test ASTM C1567 Rapid-Cement Combo	\$ 760
55. 'R' Value (HVEEM) (Treated material by quote)	\$ 270
56. Rip Rap, Slope Protection, Quarry Stone Acceptance	Per Quote
57. Specific gravity w/ absorption - coarse (ASTM C127, CTM 206)	\$ 100
58. Specific gravity w/ absorption - fine (ASTM C128, CTM 207)	\$ 125
59. Sulfate Soundness, 5 cycle test per primary size – ASTM C88	\$ 325
60. Uncompacted Void Content of Fine Aggregate – AASHTO T304	\$ 145
61. Unit weight – ASTM C29	\$ 72

IV. LAB TESTS: CEMENT, CONCRETE, & MASONRY

A Cement

1. Alkali content of Portland Cement	Per Quote
2. Grab sample (CCR Title 24) includes 1 year storage	\$ 48
3. Testing individual samples of cement, ASTM C150	Per Quote

B Concrete

1. Cement content of hardened concrete – ASTM 1085	\$ 550
2. Concrete compression: 6x12 cylinders – ASTM C39:	\$ 25
3. Concrete compression: 4x8 cylinders – ASTM C39:	\$ 20
4. Concrete cylinder pickup: 6x12 (>25mi. radius of Lab add hourly pickup rate)	\$ 9.50
5. Concrete cylinder pickup: 4x8 (>25mi. radius of Lab add hourly pickup rate)	\$ 7.50
6. Concrete cylinder mold (w/ lid - spare)	\$ 5
7. Concrete core compression test – ASTM C42	\$ 35
8. Concrete Trial Batch (includes 6 compression tests)	\$765
9. Concrete Mix Design Review (excludes testing & revisions)	\$230
10. Concrete mix proportion revision	\$150
11. Density of concrete cylinder (unit weight)	\$64
12. Drying shrinkage – ASTM C157 (set of 3, 5 ages)	\$495
13. End preparation of cores, diamond sawing, per cut	\$15
14. Flexural beam pick-up (>25mi. radius of Lab add hourly pickup rate)	\$38 ea
15. Flexural strength, 6"x6" beam – ASTM C78 & C293	\$78
16. Shotcrete/Gunite core compression test (not including coring)	\$35
17. Coring of Shotcrete/Gunite panel in laboratory, each core	\$50
18. Shotcrete/Gunite panel pick-up (>25mi. radius of Lab add hourly pickup rate)	\$38
19. Lab. trial batch, not including specimen tests - ASTM C192	Per Quote
20. Lightweight insulating concrete compress, 4 req. – ASTM C495	\$50
21. Lightweight insulating concrete – unit weight (oven dry)	\$95
22. Modulus of elasticity, 6"x12" cylinder – ASTM C469	\$215
23. Petrographic analysis of hardened concrete – ASTM C856	Per Quote
24. Poisson's Ratio on 6"x12" cylinders – ASTM C469	Per Quote
25. Splitting tensile – ASTM C496	\$75
26. Non-Shrink (Dry-Pack) Grout – 2"x2"x2"; set of 3	\$96

C Masonry

1. Absorption - brick, 5 required – ASTM C67	\$ 75
2. Absorption - masonry unit, 3 required – ASTM C140	\$ 45
3. Compressive strength, brick, 5 required – ASTM C67	\$ 45
4. Compression - masonry core	\$ 35
5. Compression - masonry prisms 8"x 8" – ASTM E447 (other sizes by quote – may require cutting charge)	\$ 145
6. Compression - masonry unit, 3 required – ASTM C140 (requires absorption/unit weight tests for Net Area)	\$ 65
7. Dimensions – masonry unit, 3 required	\$ 40
8. Masonry Prism Pickup	\$ 29
9. Masonry Unit Acceptance Test – ASTM C140 (includes absorption, compression, dimensions, unit weight)	\$ 585
10. Compression test, grout specimens	\$ 30
11. Compression test, mortar specimens	\$ 25
12. Diamond sawing of masonry specimens, if required (minimum)	\$ 24
13. Efflorescence, first unit @ \$125, each additional @	\$ 54
14. Linear shrinkage, masonry unit, 3 required – ASTM C426	\$ 98
15. Modulus of rupture, brick, 5 required – ASTM C67	\$ 42
16. Moisture content - masonry unit (as received), 3 req'd – ASTM C140	\$ 42
17. Shear test on masonry core – CBC 2105A.4	\$ 85
18. Tensile test on masonry block	\$ 190
19. Unit weight, masonry unit, 3 required – ASTM C140	\$ 45
20. Visual Examination & Photo-document Core – CBC 2105A.4	\$ 35

V. LAB TESTS: REINFORCING & STRUCTURAL STEEL

A General Testing

1. Processing mill certification (each size & heat)	\$18 ea.
2. Rockwell or Brinell Hardness, average of three readings	\$24 ea.
3. Zinc coating, each item (includes Haz Mat Fee)	\$187

B Reinforcing Steel

1. Deformation, reinforcing steel	\$40
2. Pre-stress, strand or wire, tensile & elongation	Per Quote
3. Proof test on post-tension assembly	Per Quote
4. Bend Test (rebar)	\$45
5. Tensile test (rebar), up to & including #8	\$45
6. Tensile test (rebar) #9, #10, #11	\$60
7. Tensile test (rebar) #14, #18	\$160
8. Rebar Mechanical Coupler (Tension) Test (up to #11 bar)	\$125

C Structural Steel

1. Cutting & machining charges	cost + 15%
2. Bend test, structural, all sizes	\$55
3. Tensile test, structural, <3/4" cross-section (cutting & machining extra)*	\$75
4. Tensile test, structural, >3/4" cross-section (cutting & machining extra)*	\$95
5. Flattening test of pipe	\$42
<i>*Tensile and yield by percent offset, add \$85</i>	

D High Strength Bolts

1. DSA-Certified High Strength Bolt Set ea. (Bolt, Nut, & Washer)	\$ 335
2. Bolts – proof load (non-DSA)	\$ 45
Bolts – ultimate load	\$ 65
Bolts – hardness	\$ 35
3. Nuts – proof load	\$ 45
Nuts – hardness	\$ 35
4. Washers – hardness	\$ 35

E Welding Procedure and Welder Qualification Tests

<i>Coupon thickness (mild steel only)</i>		<i>to 3/8"</i>	<i>over 3/8"</i>
1. Fracture bend (fillet)			\$45
2. Macroetch	\$55 ea.		
3. Free bend			\$65
4. Nick break	\$45 ea.		\$35
5. Side, face or root bend	\$28 ea.		\$35
6. Tensile	\$40 ea.		\$50
7. Welder Qualification Records			\$115

Includes evaluation of test specimens and preparation of Stamped Welder/Procedure Qualification Records per applicable code.

**Welder qualification examinations are given in our laboratory or at fabricator's shop with 4-hour minimum witnessing charge.*

***Fees listed are for tests only. Sample preparation, coupon machining, etc., will be charged at applicable hourly lab rates and cost plus 15% for Outside Direct Costs.*

VI. MISCELLANEOUS CONSTRUCTION MATERIALS TESTS

1. Calibration Certificates	Per Quote
2. Density of Sprayed Fireproofing	\$70
3. Fireproofing Bond Pull Test	\$38
4. Roof Tile Strength	\$54
5. Roof Tile Absorption	\$38
6. Roof Cut Tests (total weight only)	\$57
7. Ply count, separation, bituminous content, etc.	Per Quote
8. Jobsite Trailer or Mobile Laboratory	Per Quote
9. Universal Testing Machine (Hourly)	\$150
10. Ground Rod Test (plus travel)	\$150

ADDITIONAL TESTS: BTC LABS and NV5 perform a broad spectrum of field and laboratory testing. This Fee Schedule list only the most common tests performed. For information regarding additional testing services, please contact our laboratory.

VII. ASPHALT & ASPHALTIC CONCRETE

A. Asphalt Pavement Engineering

1. CALTRANS Third Party Resolution Documentation Fee	\$350
2. Pavement Evaluations	\$425 (minimum)

B. Asphaltic Cements And Liquid Asphalts

1. Absolute viscosity @140 °F – ASTM D-2171, AASHTO T-202	\$155
Other temperature	\$185
2. Cone penetration – ASTM D-217	\$125
3. Flash point Cleveland Open Cup – ASTM D-92, AASHTO T-48	\$125
4. Kinematic viscosity @140 or 275°F – D-2170, T-201	\$125
Other temperature	\$155
5. Penetration – ASTM D-5, AASHTO T-49 (at 77°F)	\$115
Other temperature	\$135
6. Softening point – ASTM D-36	\$125
7. Solubility in trichloroethylene – ASTM D2042, AASHTO T-44	\$185
8. Specific gravity – ASTM D-70, AASHTO T-228	\$125

C. Emulsions And Slurry Seals

1. Cement mixing – ASTM D-244, AASHTO T-59	\$105
2. Consistency test – ASTM D-3910	\$95
3. Demulsibility – ASTM D-244, AASHTO T-59	\$115
4. Miscibility – ASTM D-244	\$115
5. Particle charge – ASTM D-244, AASHTO T-59	\$75
6. pH determination	\$75
7. Oven cook off (% residue)	\$100
8. Set time – ASTM D-3910	\$85
9. Settlement, 5 or 7 day – ASTM D-244, AASHTO T-59	\$155
10. Slurry seal mix proportion	\$1,750
11. Solids content by evaporation and extraction (slurry)	\$205
12. Storage stability, 1 day – ASTM D-244	\$150
13. Torsional Recovery	\$125
14. Wet Track Abrasion – ASTM D-3910 (prep. not included)	\$270

D. Asphaltic Concrete, Aggregate And Mixes

1. Bulk Specific Gravity (max density, bulk AC) CTM 308, AASHTO T166	
3 pt. LTMD	\$210
5 pt. LTMD	\$325
2. Coring of asphaltic concrete – See Section E Diamond Coring	
3. Extraction, % bitumen and sieve analysis	
Solvent Extraction Method – ASTM D2172	\$325
Ignition Oven Method – CTM 382, 202	\$225
4. Extraction, % bitumen only	
Solvent Extraction Method – ASTM 2172	\$265
Ignition Oven Method – CTM 382	\$145
5. Film stripping – CTM 302	\$165
6. Ignition Oven Correction Factor – CTM 382	\$650
7. Marshall - Stability and flow (core) – ASTM D-1559	\$125
8. Marshall - Stability and flow (bulk) – ASTM D-1559	\$325
9. Marshall - Specific Gravity	\$225
10. Mix proportion - Marshall Method	\$2,900
with R.A.P.	\$3,700
11. Mix proportion - HVEEM Method	\$2,700
with R.A.P.	\$3,500
12. Theoretical Maximum Specific Gravity (RICE) – ASTM D-2041	\$200
13. Moisture content – ASTM D-1461	\$115
14. Recovery of Extracted Asphalt (extraction only) - ASTM D-5404	\$250
15. Recovery of rubber from ARHM extraction	\$115
16. Specific gravity of core – ASTM D-2726	\$60
17. HVEEM Stabilometer test on premixed sample – CTM 366	\$185
Stabilometer test and mixing of sample	\$400
18. Surface abrasion CTM 360	\$445
19. Swell test in conjunction with stabilometer – CTM 305	\$115
20. Resistance to Moisture Induced Damage (untreated) – T-283, CT 371	\$1,700
21. Resistance to Moisture Induced Damage (lime) – T-283, CT 371	\$1,850
22. Viscosity curve for ARHM (% rubber) binder blend - 6 hr.	\$870
- 8 hr.	\$1,200

NOTE: Where prices are listed for mix proportions, the necessary specific gravity tests and sieve analyses are included; however, aggregate and asphalt qualification tests are not.