

PROFESSIONAL SERVICES AGREEMENT
Traffic Sign Inventory Project

THIS AGREEMENT is entered into this _____ day of _____ 2015, between the CITY OF STOCKTON, a municipal corporation (“City”), and TRANSMAP, a corporation whose address is 3366 Riverside Drive, Suite 103, Upper Arlington, OH 43221, and telephone number is (614) 481-6799, (“Consultant”).

RECITALS

- A. Consultant is qualified to and experienced in providing mobile data collection, processing, analysis, and inventory of roadway infrastructure, particularly traffic signs for the purposes specified in this Agreement.
- B. City finds it necessary and advisable to use the services of the Consultant for the purposes provided in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions in this Agreement, City and Consultant agree as follows:

- 1. Consultant’s Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in Exhibit A. Consultant shall provide said services at that time, place and in the manner specified in Exhibit A.
- 2. City Assistance, Facilities, Equipment and Clerical Support.** Except as set forth in Exhibit A, Consultant shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. City shall furnish to Consultant only the facilities and equipment listed in Exhibit A according to the terms and conditions set forth in Exhibit A.
- 3. Term.** This Agreement shall commence on the date written above and shall expire on June 30, 2016; provided, however the parties may agree to change either the commencement or expiration date.
- 4. Compensation.** City shall pay Consultant for services rendered pursuant to this Agreement as described more particularly in Exhibit A. The payments shall be made on a monthly basis upon receipt and approval of Consultant’s invoice. Total compensation for services and reimbursement for costs shall not exceed \$99,652.99 for Tasks 1a, 1b, 2a, 2b, 3a, 3b, and 4a.

- a. Invoices submitted by Consultant to City must contain a brief description of work performed, time used and City reference number. Payment shall be made within thirty (30) days of receipt of Consultant's invoice and approved by City.
 - b. Upon completion of work and acceptance by City, Consultant shall have sixty (60) days in which to submit final invoicing for payment. An extension may be granted by City upon receiving a written request thirty (30) days in advance of said time limitation. The City shall have no obligation or liability to pay any invoice for work performed which the Consultant fails or neglects to submit within sixty (60) days, or any extension thereof granted by the City, after the work is accepted by the City.
- 5. Sufficiency of Consultant's Work.** All reports, drawings, designs, plan review comments and work product of Consultant shall be adequate and sufficient to meet the purposes for which they are prepared.
- 6. Ownership of Work.** All reports, drawings, designs, plan review comments, work product, and all other documents completed or partially completed by Consultant in the performance of this Agreement shall become the property of the City. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Consultant agrees to execute any additional documents that may be necessary to evidence such assignment. All materials shall be delivered to the City upon completion or termination of the work under this Agreement. If any materials are lost, damaged or destroyed before final delivery to the City, the Consultant shall replace them at its own expense. Consultant shall keep materials confidential. Materials shall not be used for purposes other than performance of services under this Agreement and shall not be disclosed to anyone not connected with these services, unless the City provides prior written consent.
- 7. Changes.** City may request changes in the scope of services to be provided by Consultant. Any changes and related fees shall be mutually agreed upon between the parties and subject to a written amendment to this Agreement.
- 8. Consultant's Status.** In performing the obligations set forth in this Agreement, Consultant shall have the status of an independent contractor and Consultant shall not be considered to be an employee of the City for any purpose. All persons working for or under the direction of Consultant are its agents and employees and are not agents or employees of City.
- 9. Termination for Convenience of City.** The City may terminate this Agreement at any time by mailing a notice in writing to Consultant. The Agreement shall then be deemed terminated, and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the work actually completed at the time the notice of termination is received.

10. Non-Assignability. The Consultant shall not assign, sublet, or transfer this Agreement or any interest or obligation in the Agreement without the prior written consent of the City, and then only upon such terms and conditions as City may set forth in writing. Consultant shall be solely responsible for reimbursing subcontractors.

11. Indemnity and Hold Harmless. Consultant shall defend, indemnify, and hold harmless, the City and its officers, agents and employees from and against all claims, losses, damage, injury, and liability for damages arising from, or alleged to have arisen from, errors, omissions, negligent or wrongful acts of the Consultant in the performance of its services under this Agreement, regardless of whether the City has reviewed or approved the work or services which has given rise to the claim, loss, damage, injury or liability for damages. This indemnification shall extend for a reasonable period of time after completion of the project as well as during the period of actual performance of services under this Agreement. The City's acceptance of the insurance certificates required under this Agreement does not relieve the Consultant from its obligation under this paragraph.

12. Insurance. During the term of this Agreement, Consultant shall maintain in full force and effect at its own cost and expense the insurance coverage as set forth in the attached Exhibit B and shall otherwise comply with the other provisions of Exhibit B.

13. Notices. All notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed as follows:

To Consultant:	Howard Luxhoj, President & CEO	To City:	City Manager
	Transmap Corporation		City of Stockton
	3366 Riverside Drive, Suite 103		425 N. El Dorado Street
	Upper Arlington, OH 43221		Stockton, CA 95202

14. Conformance to Applicable Laws. Consultant shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances. Consultant shall not discriminate in the employment of persons or in the provision of services under this Agreement on the basis of any legally protected classification, including race, color, national origin, ancestry, sex or religion of such person.

15. Licenses, Certifications and Permits. Prior to the City's execution of this Agreement and prior to the Consultant's engaging in any operation or activity set forth in this Agreement, Consultant shall obtain a City of Stockton business license, which must be kept in effect during the term of this Agreement. Consultant covenants that it has obtained all certificates, licenses, permits and the like required to perform the services under this Agreement.

16. Records and Audits. Consultant shall maintain all records regarding this Agreement and the services performed for a period of three years from the date that final payment is made. At any time during normal business hours, the records shall be made available to the City to inspect and audit.

17. Confidentiality. Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City reports, information or conclusions.

18. Conflicts of Interest. Consultant covenants that other than this Agreement, Consultant has no financial interest with any official, employee or other representative of the City. Consultant and its principals do not have any financial interest in real property, sources of income or investment that would be affected in any manner of degree by the performance of Consultant's services under this Agreement. If such an interest arises, Consultant will immediately notify the City.

19. Waiver. In the event either City or Consultant at any time waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or of any other covenant, condition or obligation.

20. Governing Law. California law shall govern any legal action pursuant to this Agreement with venue for all claims in the Superior Court of the County of San Joaquin, Stockton Branch or, where applicable, in the federal District Court of California, Northern District, Sacramento Division.

21. No Personal Liability. No official or employee of City shall be personally liable to Consultant in the event of any default or breach by the City or for any amount due Consultant.

22. Exhibits. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

Continued on following page.

23. Scope of Agreement. This writing constitutes the entire Agreement between the parties. Any modification to the Agreement shall be in writing and signed by both parties.

THIS AGREEMENT executed the date and year first above written.

CITY OF STOCKTON

CONSULTANT

City Manager

By:



Signature

Howard Luxhoj

Print name

Title:

President/CEO

ATTEST:

[Note: If Consultant is a corporation signature(s) must comply with Cal. Corporations Code §313.]

City Clerk

APPROVED AS TO FORM:

City Attorney