

## AMENDMENT TO CONTRACT

# 5

The County of San Benito ("COUNTY") and HMC Group ("CONTRACTOR") enter into this agreement on the date stated next to the signatures below. In consideration of the mutual promises set forth herein, the parties agree as follows:

### 1. Existing Contract.

#### a. Initial Contract.

COUNTY and CONTRACTOR acknowledge that the parties entered into a contract, dated July 9, 2013.

#### b. Prior Amendments. (Check one.)

The initial contract previously has not been amended.

The initial contract previously has been amended. The date(s) of prior amendments are as follows: May 5, 2015; May 24, 2016; May 9, 2017; January 23, 2018

#### c. Incorporation of Original Contract.

The initial contract and any prior amendments to the initial contract (hereafter collectively referred to as the "original contract") are attached to this amendment as Exhibit 1 and made a part of this amended contract.

### 2. Purpose of this Amendment.

The purpose of this amendment is to change the agreement between the parties in the following particulars:

#### a. Term of the Contract. (Check one.)

The term of the original contract is not modified.

The term of the original contract (Exhibit 1) is extended from the current expiration date of \_\_\_\_\_, to a new expiration date of \_\_\_\_\_.

#### b. Scope of Services. (Check one.)

The services specified in the original contract (Exhibit 1) are not modified.

The services specified in the original contract (Exhibit 1) are modified as specified below: (Check one.)

The services specified in the original contract are modified only as specified below:

#### Modified or New Scope of Services:

(Insert modified or new services.)

**Attachment A (Scope of Services) to the original contract, as previously amended (Exhibit 1), is hereby further amended to add the following to Section 6 "Construction Phase":**

- Make owner-requested revisions to the construction documents:
  - Revise location of water softening system
  - Revise location of inmate payphones in booking area

- Add hose bibbs to each recreation yard
- Relocate door 121C to other side of room
- Revise portion of parking lot fence location

**All other provisions of Attachment A to the original contract, as previously amended (Exhibit 1), shall remain the same.**

- The services specified in the original contract are deleted in their entirety and replaced with the following services:

**New Scope of Services:**

(Insert new services.)

**c. Payment Terms. (Check one.)**

- The payment terms in the original contract (Exhibit 1) are not modified.  
 The payment terms in the original contract (Exhibit 1) are modified as specified below: (Check one.)  
 The payment terms are modified only as specified below:

**Modified or New Payment Terms:**

(Insert modified or new payment terms.)

Paragraph B-3 (Compensation) of Attachment B (Payment Schedule) to the original contract as previously amended (Exhibit 1) is hereby further amended to add additional compensation in the amount of \$12,420.00 for services rendered pursuant to this amendment, for a total contract value not to exceed \$1,593,262.25, as follows:

Original Contract:	\$1,470,000.00
First Amendment:	\$17,000.00
Second Amendment:	\$37,675.00
Third Amendment:	\$39,835.00
Fourth Amendment:	\$16,332.25
<u>Fifth Amendment:</u>	<u>\$12,420.00</u>
<b>Total Not To Exceed:</b>	<b>\$1,593,262.25</b>

**Accordingly, Paragraph B-3, as previously amended, is hereby further amended to read as follows:**

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ \_\_\_\_\_, or  
 a total sum not to exceed \$1,593,262.25,  
 for services rendered pursuant to the terms and conditions of the original contract, as previously amended (Exhibit 1), and pursuant to any special compensation terms specified in Attachment B to the original contract, as previously amended (Exhibit 1).

**Paragraph B-4(C) (Special Compensation) of Attachment B (Payment Schedule) to the original contract, as previously amended (Exhibit 1), is hereby further amended as follows:**

The line item for "Construction Documents", as previously amended, is hereby further amended to specify an increased budget of \$366,852.25.

**All other provisions of Attachment B to the original contract, as previously amended (Exhibit 1), shall remain the same.**

- The payment terms are deleted in their entirety and replaced with the following payment terms:

**New Payment Terms:**

**B-1. BILLING**

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (Check one.)

- One month in arrears.  
 Upon the complete performance of the services specified in the original agreement (Exhibit 1) and this amendment.  
 The basis specified in paragraph B-4.

**B-2. PAYMENT**

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of the original contract, net thirty (30) days from the invoice date.

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ \_\_\_\_\_, or  
 a total sum not to exceed \$ \_\_\_\_\_,

for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

**B-4. SPECIAL COMPENSATION TERMS: (Check one.)**

- There are no additional terms of compensation.  
 The following specific terms of compensation shall apply:  
(Specify)

d. **Other Terms.** (Check one.)

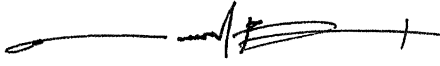
- There are no other terms of the original contract that are modified.  
 Other terms of the original contract are modified only as specified below:

**Other Modified or New Terms:**  
(Insert other modified or new terms.)

3. **Other Terms.**

All other terms and conditions of the original contract (Exhibit 1) which are not changed by this amendment shall remain the same.

**CONTRACTOR**

 HMC  
ARCHITECTS

Name/Title: Carrick Boshart / Managing Principal

6.14.18

Date

**COUNTY**

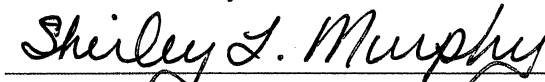
San Benito County Board of Supervisors

Anthony Botelho, Chair

Date

**APPROVED AS TO LEGAL FORM:**

San Benito County Counsel's Office



By: Shirley L. Murphy, Deputy County Counsel

June 15, 2018

Date

**EXHIBIT 1  
TO AMENDMENT # 5**

**ORIGINAL  
CONTRACT**

(Please attach the initial contract and any prior amendments, from the most recent to the initial contract, in reverse chronological order.)

## AMENDMENT TO CONTRACT

# 4

The County of San Benito ("COUNTY") and HMC Group ("CONTRACTOR") enter into this agreement on the date stated next to the signatures below. In consideration of the mutual promises set forth herein, the parties agree as follows:

**1. Existing Contract.**

**a. Initial Contract.**

COUNTY and CONTRACTOR acknowledge that the parties entered into a contract, dated July 9, 2013.

**b. Prior Amendments. (Check one.)**

The initial contract previously has not been amended.

The initial contract previously has been amended. The date(s) of prior amendments are as follows: May 5, 2015 ; May 26, 2016; April 25, 2017

**c. Incorporation of Original Contract.**

The initial contract and any prior amendments to the initial contract (hereafter collectively referred to as the "original contract") are attached to this amendment as Exhibit 1 and made a part of this amended contract.

**2. Purpose of this Amendment.**

The purpose of this amendment is to change the agreement between the parties in the following particulars:

**a. Term of the Contract. (Check one.)**

The term of the original contract is not modified.

The term of the original contract (Exhibit 1) is extended from the current expiration date of \_\_\_\_\_, to a new expiration date of \_\_\_\_\_.

**b. Scope of Services. (Check one.)**

- The services specified in the original contract (Exhibit 1) are not modified.
- The services specified in the original contract (Exhibit 1) are modified as specified below: (Check one.)
- The services specified in the original contract are modified only as specified below:

**Modified or New Scope of Services:**

Attachment A of the original contract (Exhibit 1) is amended as follows:

Section "4 Construction Documents Phase" is amended to add the following:

- Security Electronics Sub-consultant will provide additional design services to add owner-requested conduit pathway infrastructure, coordinate relocation of video visitation and inmate payphone data drops, and incorporate these changes into the construction documents.
- PG&E required changes to the electrical and gas utility design after final design was already completed. The work required to coordinate these changes are as follows:
  - o Architect consultant
    - Coordinate with the County, Civil Engineer subconsultant and MEP subconsultant on plan changes
    - Conduct one round of County/Agency review revisions
    - Participate in two conference call meetings
    - Additional minor construction administration related to additional equipment
  - o Civil subconsultant
    - Revise Grading, utility, fire and associated civil drawings to reflect proposed PG&E design
    - Relocate the originally proposed utilities to reflect revised layout
    - Coordinate with architect and MEP
    - Conduct one round of County/Agency review revisions
    - Participate in two conference call meetings
    - Additional minor construction administration related to additional equipment
  - o MEP subconsultant
    - Perform application assistance and project demand calculations
    - Coordinate with Civil and Architect
    - Conduct one round of County/Agency review revisions
    - Participate in one conference call meeting

All other provisions of Attachment A to the original contract (Exhibit 1) shall remain the same.

- The services specified in the original contract are deleted in their entirety and replaced with the following services:

**New Scope of Services:**

(Insert new services.)

**c. Payment Terms. (Check one.)**

- The payment terms in the original contract (Exhibit 1) are not modified.  
 The payment terms in the original contract (Exhibit 1) are modified as specified below: (Check one.)

- The payment terms are modified only as specified below:

**Modified or New Payment Terms:**

Paragraph B-3 (Compensation) of Attachment B (Payment Schedule) to the original contract (Exhibit 1) is modified to add additional compensation in the amount of \$16,332.25 for services rendered pursuant to this amendment for a total contract value not to exceed \$1,580,842.25. Paragraph B-3 is hereby amended to read as follows:

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$\_\_\_\_\_, or  
 a total sum not to exceed \$1,580,842.25, for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

Paragraph B-4(C) of Attachment B to the original contract (Exhibit 1) is hereby revised as follows:

The line item for "Construction Documents" is hereby amended to specify an increased budget of \$354,432.25.

All other provisions of Attachment B to the original contract shall remain the same.

- The payment terms are deleted in their entirety and replaced with the following payment terms:

**New Payment Terms:**

**B-1. BILLING**

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (Check one.)

- One month in arrears.  
 Upon the complete performance of the services specified in the original agreement (Exhibit 1) and this amendment.  
 The basis specified in paragraph B-4.



**B-2. PAYMENT**

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of the original contract, net thirty (30) days from the invoice date.

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ \_\_\_\_\_, or
- a total sum not to exceed \$ \_\_\_\_\_,

for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

**B-4. SPECIAL COMPENSATION TERMS:** (Check one.)

- There are no additional terms of compensation.
- The following specific terms of compensation shall apply:  
(Specify)

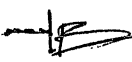
d. **Other Terms.** (Check one.)

- There are no other terms of the original contract that are modified.
- Other terms of the original contract are modified only as specified below:

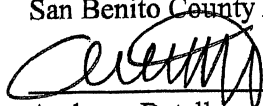
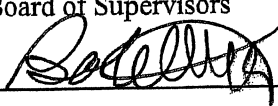
**Other Modified or New Terms:**  
(Insert other modified or new terms.)

**3. Other Terms.**

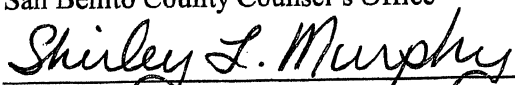
All other terms and conditions of the original contract (Exhibit 1) which are not changed by this amendment shall remain the same.

**CONTRACTOR**  <sup>HMC</sup> ARCHITECTS  
 Name/Title: Carrick Boshart / Managing Principal

12.18.17  
Date

**COUNTY**  
 San Benito County Board of Supervisors  
   
Anthony Botelho, Chair

1/23/18  
Date

**APPROVED AS TO LEGAL FORM:**  
 San Benito County Counsel's Office  
  
 By: Shirley L. Murphy, Deputy County Counsel

Jan. 5, 2018  
Date

**EXHIBIT 1**  
**TO AMENDMENT # 4**

**ORIGINAL**  
**CONTRACT**

(Please attach the initial contract and any prior amendments, from the most recent to the initial contract, in reverse chronological order.)

## AMENDMENT TO CONTRACT

# 3

The County of San Benito ("COUNTY") and HMC Group ("CONTRACTOR") enter into this agreement on the date stated next to the signatures below. In consideration of the mutual promises set forth herein, the parties agree as follows:

**1. Existing Contract.**

**a. Initial Contract.**

COUNTY and CONTRACTOR acknowledge that the parties entered into a contract, dated July 9, 2013.

**b. Prior Amendments. (Check one.)**

The initial contract previously has not been amended.

The initial contract previously has been amended. The date(s) of prior amendments are as follows: May 5, 2015 ; May 26, 2016

**c. Incorporation of Original Contract.**

The initial contract and any prior amendments to the initial contract (hereafter collectively referred to as the "original contract") are attached to this amendment as Exhibit 1 and made a part of this amended contract.

**2. Purpose of this Amendment.**

The purpose of this amendment is to change the agreement between the parties in the following particulars:

**a. Term of the Contract. (Check one.)**

The term of the original contract is not modified.

The term of the original contract (Exhibit 1) is extended from the current expiration date of \_\_\_\_\_, to a new expiration date of \_\_\_\_\_.

**b. Scope of Services. (Check one.)**

- The services specified in the original contract (Exhibit 1) are not modified.
- The services specified in the original contract (Exhibit 1) are modified as specified below: (Check one.)
- The services specified in the original contract are modified only as specified below:

**Modified or New Scope of Services:**

Attachment A of the original contract, as previously amended (Exhibit 1), is hereby further amended as follows:

Section "5 Bidding Phase", as previously amended, is hereby further amended to add the following services:

**Architectural**

- Attend additional weekly online/phone meetings; include 1 in-person meeting at the County offices
- Provide information in the bid specifications regarding the emergency power generator required processing and approvals with MBUAPCD
- Provide formal responses to the QC/Constructability list
- Provide revised plans, including limited agency re-processing, for bid
- Provide all other Bidding services per original County contract

**Engineering Consultants**

- Provide late requested redesign for the emergency/backup power
- Provide formal responses to the QC/Constructability list
- Provide limited agency re-processing for revised plans/sketches

All other provisions of Attachment A to the original contract, as previously amended (Exhibit 1), shall remain the same.

- The services specified in the original contract are deleted in their entirety and replaced with the following services:

**New Scope of Services:**

(Insert new services.)

**c. Payment Terms. (Check one.)**

- The payment terms in the original contract (Exhibit 1) are not modified.
- The payment terms in the original contract (Exhibit 1) are modified as specified below: (Check one.)
- The payment terms are modified only as specified below:

**Modified or New Payment Terms:**

Paragraph B-3 (Compensation) of Attachment B (Payment Schedule) to the original contract (Exhibit 1), as previously amended, is hereby further amended to add additional

compensation in the amount of \$39,835.00 for services rendered pursuant to this amendment for a total contract value not to exceed \$1,564,510.00, as follows:

Original Contract	\$1,470,000.00
First Amendment:	\$17,000.00
Second Amendment:	\$37,675.00
<u>Third Amendment:</u>	<u>\$39,835.00</u>
Total Not To Exceed:	\$1,564,510.00

Accordingly, Paragraph B-3, as previously amended, is hereby further amended to read as follows:

### **B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

a total lump sum payment of \$ \_\_\_\_\_, or  
 a total sum not to exceed \$1,564,510.00,  
for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

Paragraph B-4(C) of Attachment B to the original contract (Exhibit 1), as previously amended, is hereby further amended as follows:

The line item for "Bidding", as previously amended, is hereby further amended to specify an increased budget of \$136,310.00.

All other provisions of Attachment B to the original contract shall remain the same.

The payment terms are deleted in their entirety and replaced with the following payment terms:

#### **New Payment Terms:**

### **B-1. BILLING**

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (Check one.)

- One month in arrears.
- Upon the complete performance of the services specified in the original agreement (Exhibit 1) and this amendment.
- The basis specified in paragraph B-4.

**B-2. PAYMENT**

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of the original contract, net thirty (30) days from the invoice date.

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ \_\_\_\_\_, or
- a total sum not to exceed \$ \_\_\_\_\_,

for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

**B-4. SPECIAL COMPENSATION TERMS:** (Check one.)

- There are no additional terms of compensation.
- The following specific terms of compensation shall apply:  
(Specify)

**d. Other Terms.** (Check one.)

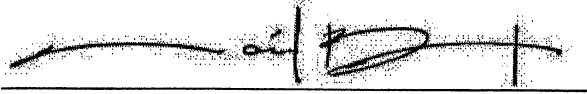
- There are no other terms of the original contract that are modified.
- Other terms of the original contract are modified only as specified below:

**Other Modified or New Terms:**  
(Insert other modified or new terms.)

**3. Other Terms.**

All other terms and conditions of the original contract (Exhibit 1) which are not changed by this amendment shall remain the same.

**CONTRACTOR**

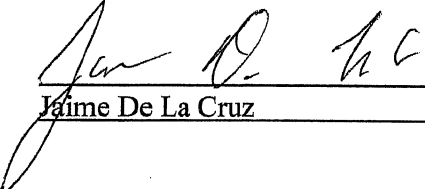


Name/Title: Carrick Boshart / Managing Principal

4 - 13 - 17  
Date

**COUNTY**

San Benito County Board of Supervisors

  
Jaime De La Cruz, Chair

5/9/17  
Date

**APPROVED AS TO LEGAL FORM:**  
San Benito County Counsel's Office

  
By: Shirley L. Murphy, Deputy County Counsel

April 14, 2017  
Date

**EXHIBIT 1  
TO AMENDMENT # 3**

**ORIGINAL  
CONTRACT**

(Please attach the initial contract and any prior amendments, from the most recent to the initial contract, in reverse chronological order.)



## AMENDMENT TO CONTRACT

# 2

The County of San Benito ("COUNTY") and HMC Group ("CONTRACTOR") enter into this agreement on the date stated next to the signatures below. In consideration of the mutual promises set forth herein, the parties agree as follows:

**1. Existing Contract.**

**a. Initial Contract.**

COUNTY and CONTRACTOR acknowledge that the parties entered into a contract, dated July 9, 2013.

**b. Prior Amendments. (Check one.)**

The initial contract previously has not been amended.

The initial contract previously has been amended. The date(s) of prior amendments are as follows: May 5, 2015

**c. Incorporation of Original Contract.**

The initial contract and any prior amendments to the initial contract (hereafter collectively referred to as the "original contract") are attached to this amendment as Exhibit 1 and made a part of this amended contract.

**2. Purpose of this Amendment.**

The purpose of this amendment is to change the agreement between the parties in the following particulars:

**a. Term of the Contract. (Check one.)**

The term of the original contract is not modified.

The term of the original contract (Exhibit 1) is extended from the current expiration date of \_\_\_\_\_, to a new expiration date of \_\_\_\_\_.

**b. Scope of Services. (Check one.)**

- The services specified in the original contract (Exhibit 1) are not modified.  
 The services specified in the original contract (Exhibit 1) are modified as specified below: (Check one.)  
 The services specified in the original contract are modified only as specified below:

**Modified or New Scope of Services:**

Attachment A of the original contract (Exhibit 1) is amended as follows:

Section "5 Bidding Phase" is amended to add the following:

- Attend 4 additional meetings (1 at San Benito County)
- Prepare revised cost estimate and schedule
- Incorporate County's revisions to specifications

All other provisions of Attachment A to the original contract (Exhibit 1) shall remain the same.

- The services specified in the original contract are deleted in their entirety and replaced with the following services:

**New Scope of Services:**

(Insert new services.)

**c. Payment Terms. (Check one.)**

- The payment terms in the original contract (Exhibit 1) are not modified.  
 The payment terms in the original contract (Exhibit 1) are modified as specified below: (Check one.)  
 The payment terms are modified only as specified below:

**Modified or New Payment Terms:**

Paragraph B-3 (Compensation) of Attachment B (Payment Schedule) to the original contract (Exhibit 1) is modified to add additional compensation in the amount of \$37,675.00 for services rendered pursuant to this amendment for a total contract value not to exceed \$1,524,675.00. Paragraph B-3 is hereby amended to read as follows:

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ \_\_\_\_\_, or  
 a total sum not to exceed \$1,524,675.00 \_\_\_\_\_,  
for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

Paragraph B-4(C) of Attachment B to the original contract (Exhibit 1) is hereby revised as follows:

The line item for "Bidding" is hereby amended to specify an increased budget of \$96,475.00.

All other provisions of Attachment B to the original contract shall remain the same.

- The payment terms are deleted in their entirety and replaced with the following payment terms:

**New Payment Terms:**

**B-1. BILLING**

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (Check one.)

- One month in arrears.  
 Upon the complete performance of the services specified in the original agreement (Exhibit 1) and this amendment.  
 The basis specified in paragraph B-4.

**B-2. PAYMENT**

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of the original contract, net thirty (30) days from the invoice date.

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ \_\_\_\_\_, or  
 a total sum not to exceed \$ \_\_\_\_\_,  
for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

**B-4. SPECIAL COMPENSATION TERMS: (Check one.)**

- There are no additional terms of compensation.  
 The following specific terms of compensation shall apply:  
(Specify)

d. **Other Terms.** (Check one.)

There are no other terms of the original contract that are modified.

Other terms of the original contract are modified only as specified below:

**Other Modified or New Terms:**  
(Insert other modified or new terms.)

3. **Other Terms.**

All other terms and conditions of the original contract (Exhibit 1) which are not changed by this amendment shall remain the same.


**CONTRACTOR**

  
Name/Title: Carrick Boshart / Managing Principal

5.4.16  
Date

**COUNTY**

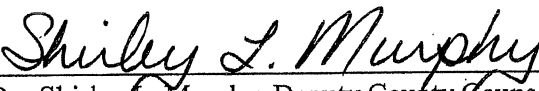
San Benito County Board of Supervisors

  
Robert Rivas, Chair

5/24/16  
Date

**APPROVED AS TO LEGAL FORM:**

San Benito County Counsel's Office

  
By: Shirley L. Murphy, Deputy County Counsel

May 12, 2016  
Date

**EXHIBIT 1**  
**TO AMENDMENT # 2**

**ORIGINAL**  
**CONTRACT**

(Please attach the initial contract and any prior amendments, from the most recent to the initial contract, in reverse chronological order.)

## AMENDMENT TO CONTRACT

# 1

The County of San Benito ("COUNTY") and HMC Group ("CONTRACTOR") enter into this agreement on the date stated next to the signatures below. In consideration of the mutual promises set forth herein, the parties agree as follows:

### 1. Existing Contract.

#### a. Initial Contract.

COUNTY and CONTRACTOR acknowledge that the parties entered into a contract, dated July 9, 2013.

#### b. Prior Amendments. (Check one.)

The initial contract previously has not been amended.

The initial contract previously has been amended. The date(s) of prior amendments are as follows: \_\_\_\_\_

#### c. Incorporation of Original Contract.

The initial contract and any prior amendments to the initial contract (hereafter collectively referred to as the "original contract") are attached to this amendment as Exhibit 1 and made a part of this amended contract.

### 2. Purpose of this Amendment.

The purpose of this amendment is to change the agreement between the parties in the following particulars:

#### a. Term of the Contract. (Check one.)

The term of the original contract is not modified.

The term of the original contract (Exhibit 1) is extended from the current expiration date of \_\_\_\_\_, to a new expiration date of \_\_\_\_\_.

#### b. Scope of Services. (Check one.)

The services specified in the original contract (Exhibit 1) are not modified.

The services specified in the original contract (Exhibit 1) are modified as specified below: (Check one.)

The services specified in the original contract are modified only as specified below:

#### Modified or New Scope of Services:

(Insert modified or new services.)

Attachment A of the original contract is amended as follows:

The heading "ASSUMPTIONS" is amended to add the following:

- No Liquidated Damages will be included as a part of Division 00
- No Pre-qualifications will be required as a part of Division 00

Section "4. Construction Documents Phase" is amended to add the following:

- Write Division 00 and Division 01 of the Main Jail Expansion Construction Bid Documents and forward the draft electronically to the County for review and comment.
- Edit and publish the final Construction Specifications to include Divisions 00 and 01.
- Engage a licensed professional fire engineering firm to conduct a third party peer review of the smoke handling systems design for the Main Jail Expansion project.
- Conduct an additional meeting to review existing specifications and review and confirm County priorities.

Section "4. Construction Documents Phase" is amended to add the following under the "Deliverables" heading:

- Division 00 and Division 01 of the Main Jail Expansion Construction Bid Documents, as electronic pdf files for inclusion into the project Specifications.

All other provisions of Attachment A to the original contract shall remain the same.

- The services specified in the original contract are deleted in their entirety and replaced with the following services:

**New Scope of Services:**

**c. Payment Terms. (Check one.)**

- The payment terms in the original contract (Exhibit 1) are not modified.
- The payment terms in the original contract (Exhibit 1) are modified as specified below: (Check one.)
- The payment terms are modified only as specified below:

**Modified or New Payment Terms:**

Paragraph B-3 of the original contract is amended to increase the compensation by an additional \$17,000.00 for services rendered pursuant to this amendment for a total contract value not to exceed \$1,487,000.00. Paragraph B-3 is hereby amended to read as follows:

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ \_\_\_\_\_, or
- a total sum not to exceed \$1,487,000.00,

for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) in the amount of \$1,470,000.00, and this amendment #1 in the amount not to exceed \$17,000.00, for a total contract value of

\$1,487,000.00, and pursuant to any special compensation terms specified in Paragraph B-4.

Paragraph B-4(C) of Attachment B to the original contract (Exhibit 1) is hereby revised as follows:

The line-item for "Construction Documents" is hereby amended to specify an increased budget of \$355,100.00

Paragraph B-4 of Attachment B to the original contract (Exhibit 1) is hereby revised to add the following to the other special compensation terms set forth in Paragraph B-4:

D. The costs related to this amendment #1 are as follows:

1. drafting Division 00 and 01 of the Construction Bid Specifications \$9,500.00
2. Third Party Peer Review of the smoke handling system design \$7,500.00

All other provisions of Attachment B to the original contract shall remain the same.

The payment terms are deleted in their entirety and replaced with the following payment terms:

**New Payment Terms:**

**B-1. BILLING**

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (Check one.)

- One month in arrears.
- Upon the complete performance of the services specified in the original agreement (Exhibit 1) and this amendment.
- The basis specified in paragraph B-4.

**B-2. PAYMENT**

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of the original contract, net thirty (30) days from the invoice date.

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ \_\_\_\_\_, or
- a total sum not to exceed \$ \_\_\_\_\_,

for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.



**B-4. SPECIAL COMPENSATION TERMS:** (Check one.)

- There are no additional terms of compensation.  
 The following specific terms of compensation shall apply:  
(Specify)

**d. Other Terms.** (Check one.)

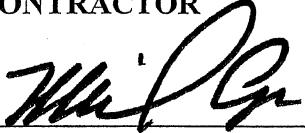
- There are no other terms of the original contract that are modified.  
 Other terms of the original contract are modified only as specified below:

**Other Modified or New Terms:**  
(Insert other modified or new terms.)

**3. Other Terms.**

All other terms and conditions of the original contract (Exhibit 1) which are not changed by this amendment shall remain the same.

**CONTRACTOR**



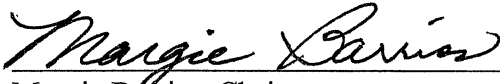
Name/Title: MITCHELL CARR/SR VICE PRESIDENT

4-28-15

Date

**COUNTY**

San Benito County Board of Supervisors



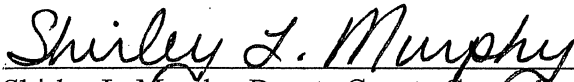
Margie Barrios, Chair

5/5/15

Date

**APPROVED AS TO LEGAL FORM:**

San Benito County Counsel's Office



Shirley L. Murphy, Deputy County Counsel

April 28, 2015

Date

**EXHIBIT 1**  
**TO AMENDMENT # 1**

**ORIGINAL**  
**CONTRACT**

(Please attach the initial contract and any prior amendments, from the most recent to the initial contract, in reverse chronological order.)

## C O N T R A C T

The COUNTY OF SAN BENITO ("COUNTY") and HMC Group ("CONTRACTOR") enter into this contract which shall be effective on the date stated in Paragraph 1.

**1. Duration of Contract.**

This contract shall commence on July 9, 2013, and end on Completion of the Scope of Work Identified in Attachment A, unless sooner terminated as specified herein.

**2. Scope of Services.**

CONTRACTOR, for COUNTY's benefit shall perform the services specified on Attachment A to this contract. Attachment A is made a part of this contract.

**3. Compensation for Services.**

In consideration for CONTRACTOR's performance, COUNTY shall pay compensation to CONTRACTOR according to the terms specified in Attachment B. Attachment B is made a part of this contract.

**4. General Terms and Conditions.**

The rights and duties of the parties to this contract are governed by the general terms and conditions mutually agreed to and listed in Attachment C. Attachment C is made a part of this contract.

**5. Insurance Limits.**

CONTRACTOR shall maintain the following insurance policy limits of coverage consistent with the further insurance requirements specified in Attachment C.

- (a) Comprehensive general liability insurance: \$1,000,000
- (b) Professional liability insurance: \$1,000,000
- (c) Comprehensive motor vehicle liability insurance: \$250,000/\$500,000

**6. Termination.**

The number of days of advance written notice required for termination of this contract is 30.

**7. Specific Terms and Conditions (check one)**

- There are no additional provisions to this contract.
- The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment D. Attachment D is made a part of this contract.
- The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment E. Attachment E is made a part of this contract.

8. Information about Contract Administrators.

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for COUNTY:

Name: Steve Wittry

Title: Public Works Administrator

Address: 2301 Technology Parkway

Hollister, California 95023

Telephone No.: 831-636-4170

Fax No.: 831-636-4176

Contract Administrator for CONTRACTOR:

Name: Beverly J. Prior, FAIA

Title: Principal

Address: 417 Montgomery Street, 8<sup>th</sup> Floor

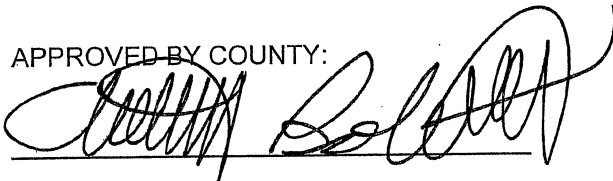
San Francisco, CA 94104

Telephone No.: 415-777-9422

Fax No.: 415-777-2755

SIGNATURES

APPROVED BY COUNTY:

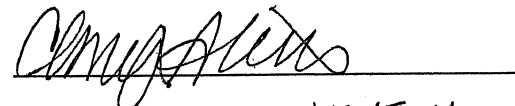


Name: Anthony Botelho

Chair, Board of Supervisors

Date: 7/9/13

APPROVED BY CONTRACTOR:

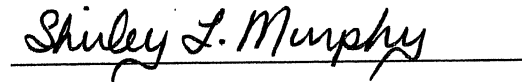


Name: CHEYL LENTINI

Title: MANAGING PRINCIPAL

Date: 5/21/13

APPROVED AS TO LEGAL FORM:  
San Benito County Counsel's Office



By: Shirley L. Murphy, Deputy County Counsel

Date: June 21, 2013

## ATTACHMENT A

### SCOPE OF SERVICES

CONTRACTOR shall provide services necessary for the COUNTY to construct the Jail Facility Expansion project pursuant to the California AB900 financing program. CONTRACTOR shall prepare or provide the information identified in the AB900 & SB81 LOCAL COUNTY PROJECTS CAPITAL OUTLAY AND STATE PUBLIC WORKS BOARD GUIDELINES book published March 2012, and complies with the COUNTY'S approved project application dated January 9, 2012 and refined through the State Public Works Board project establishment process on May 10, 2013. Services shall include the following:

#### **ASSUMPTIONS:**

- The COUNTY will provide the topographic survey for the project site and a geotechnical report.
- The project will be designed in compliance with the current codes in effect at the time of submittal for permit.
- The project scope does not include any renovation to the existing facilities, which is expressly excluded from the terms of the State financing program.
- LEED documentation and assistance with LEED certification are not included.
- Furniture selection and specification is not included.
- Agency review fees are not included.
- Advertising, posting, and/or distribution of bid sets are not included.
- All deliverables may be delivered to COUNTY electronically unless otherwise stated or where impractical to do so.

#### **SCOPE OF WORK:**

The scope of work shall include the design and preparation of construction documents and specifications for the San Benito County Jail Addition and assistance to the COUNTY during the bidding and construction phases. The scheduled phases for executing the scope of work include:

- Predesign (Program Validation & Conceptual Design)
- Schematic Design
- Design Development
- Construction Documents
- Bidding
- Construction Administration & Closeout.

The project approach is outlined as follows:

#### **1. Predesign**

- Review previously developed project materials and State AB900 Financing requirements; finalize contracts, scope of work, and schedule.
- Review site survey and geotechnical information; conduct site visit.

- Meet with the COUNTY to review the program and develop any required adjustments to update the program. Establish the sustainability goals for the project.
- Prepare the Conceptual Design layout of the facility. Review the project budget and coordinate the conceptual design with the budget by updating the cost model for the project as needed.
- Document approved design concept, program, schedule, and budget to form the basis for the Schematic Design phase.
- Conduct two (2) one-day on-site programming meetings.
- Conduct one (1) conceptual design meeting at CONTRACTOR'S office.

Deliverables:

- Updated Program.
- Conceptual Design Drawings: site plan, floor plan, exterior building massing.
- Project Schedule & Budget.
- Meeting Notes.

2. Schematic Design Phase

- Develop the project schematic design in accordance with the approved concept: floor plans, site plan, building elevations, sections, equipment schedules, and system descriptions and rough layouts.
- Meet with the COUNTY as required to develop the project and review progress.
- Prepare an estimate of probable construction costs and reconcile the design to the project budget.
- Submit the schematic design to the Board of State and Community Corrections (BSCC) and the State Fire Marshal (SFM) for review.
- Document approved design concept, program, schedule, and budget to form the basis for the Design Development phase.
- Present schematic design to stakeholders and community at a regularly scheduled Board of Supervisors meeting.
- Conduct/attend five (5) coordination/planning meetings. Two (2) of these meetings will be held at CONTRACTOR'S office.

Deliverables:

- Schematic Design Drawings: floor plans, site plan, building elevations, sections, interior elevations, major equipment layouts, systems layouts. (One hard copy for COUNTY).
- Outline Specifications. (One hard copy for COUNTY).
- Cost Estimate.
- Meeting Notes.

### 3. Design Development Phase

- Develop the project design in accordance with the approved Schematic Design: floor plans, site plan, building elevations, sections, schedules, wall sections and details, enlarged plans, systems layouts and standard details.
- Meet with the COUNTY as required to develop the project and review progress.
- Develop project specifications.
- Prepare an updated estimate of probable construction costs and reconcile the design to the project budget.
- Submit the design development drawings and specifications to the Board of State and Community Corrections (BSCC), State Fire Marshal (SFM), and State Public Works Board (SPWB) for review and approval.
- Update project schedule as required.
- Document approved design concept, program, schedule, and budget to form the basis for the Construction Documents phase.
- Present design to stakeholders and community at a regularly scheduled Board of Supervisors meeting.
- Conduct/attend four (4) coordination/progress meetings. Two (2) of these meetings will be held at CONTRACTOR'S office.
- Coordinate with COUNTY, BSCC, and CDCR/SPWB to provide necessary information and documents for SPWB Task 2 approval. SPWB approval is required before proceeding with next phase.

#### Deliverables:

- Design Development Drawings: floor plans, site plan, building elevations, sections, interior elevations, major equipment layouts, systems layouts. (One hard copy each for SPWB submittal and COUNTY).
- Draft Specifications. (One hard copy for COUNTY).
- Cost Estimate.
- Meeting Notes.
- Updated Project Schedule.

### 4. Construction Documents Phase

- Prepare the construction documents and specifications for the project based on the approved Design Development documents.
- Prepare a final update of the estimate of probable construction costs and reconcile the design to budget as required prior to bidding.
- Submit the project to COUNTY Building Department, BSCC, SFM, and CDCR for plan check and approval.
- Update project schedule as required.
- Conduct two (2) coordination/progress meetings. One (1) of these meetings will be held at CONTRACTOR'S office.
- Coordinate with COUNTY, BSCC, and CDCR/SPWB to provide necessary information and documents for SPWB Tasks 3 and 5 approval. SPWB approval is required before proceeding with bidding.

Deliverables:

- Construction Documents (drawings & specifications) suitable for plan check/permit and bidding and construction. (Hard copies as required for each Agency's plan check process).
- Cost Estimate.
- Meeting Notes.
- Updated Project Schedule.

5. Bidding Phase

- Attend pre-bid conference at project site.
- Respond to Bidder questions.
- Issue addenda as required.
- Assist County in review of bids as required.
- Coordinate with COUNTY, BSCC, and CDCR/SPWB to provide necessary information and documents for SPWB Task 6 approval. SPWB approval is required before construction contract award.

6. Construction Phase

- Respond to contractor RFI's.
- Review submittals, prepare supplemental instructions or other information as required.
- Attend job meetings and perform field visits during construction.
- Review payment applications and change orders.
- Prepare punchlists and review completion of the work and closeout materials submitted by construction contractor.
- Prepare record documentation required to closeout project upon completion.
- A construction schedule duration of 21 months is identified in the Key Event Schedule submitted to the State. Bi-weekly job meeting attendance is assumed during construction for a total of 42 meetings. Site visits and site observation will occur in conjunction with job meeting dates. Two (2) additional site visits are included for punch list walks.

Reimbursable Expenses:

Reimbursable expenses shall include:

- Printing, plotting, delivery and other expenses related to Agency review, and other submittals as indicated as Deliverables in the Scope.
- Expenses of transportation (including mileage) in connection with the Project.
- Expenses in connection with authorized out-of-town travel.



**ATTACHMENT B  
Payment Schedule**

**B-1. BILLING**

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (check one)

- One month in arrears.
- Upon the complete performance of the services specified in Attachment A.
- The basis specified in paragraph B-4.

**B-2. PAYMENT**

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of this contract, net thirty (30) days from the invoice date.

**B-3. COMPENSATION**

COUNTY shall pay to CONTRACTOR: (check one)

a total lump sum payment of \$ \_\_\_\_\_, or

a total sum not to exceed \$ 1,470,000.00

for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this attachment, Attachment B.

**B-4. SPECIAL COMPENSATION TERMS: (check one)**

- There are no additional terms of compensation.
- The following specific terms of compensation shall apply:

- A. Disputed invoices shall be returned within 15 days of receipt of the invoice with a clear description of the nature of the dispute.
- B. Amounts undisputed and unpaid beyond 30 days shall be subject to interest at the rate of one and one-half percent (1 ½%) per month on outstanding balances pursuant to California Civil Code section 3320.

C. Compensation shall be distributed by phase as follows:

Predesign	4%	\$58,800
Schematic Design	20%	\$294,000
Design Development	19%	\$279,300
Construction Documents	23%	\$338,100
Bidding	4%	\$58,800
<u>Construction Administration</u>	<u>30%</u>	<u>\$441,000</u>
Totals	100%	\$1,470,000

**END OF ATTACHMENT B**

## ATTACHMENT C

### General Terms and Conditions

#### C-1. INDEMNIFICATION.

CONTRACTOR and COUNTY each agree to indemnify, defend and save harmless the other party and the other party's officers and employees, from and against any and all claims and losses whatsoever arising out of, or in any way related to, the indemnifying party's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys' fees, court costs, investigation costs, and experts' fees) incurred by the indemnitee in connection with such claims or losses. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers and employees.

#### C-2. GENERAL INSURANCE REQUIREMENTS.

Without limiting CONTRACTOR's duty to indemnify COUNTY, CONTRACTOR shall comply with the insurance coverage requirements set forth in the contract and in this attachment. Those insurance policies mandated by Paragraph C-3 shall satisfy the following requirements:

- (a) Each policy shall be issued by a company authorized by law to transact business in the State of California.
- (b) Each policy shall provide that COUNTY shall be given notice in writing at least thirty (30) days in advance of any change, cancellation, or nonrenewal thereof.
- (c) The comprehensive motor vehicle and comprehensive general liability policies shall each provide an endorsement naming the County of San Berito and its officers, agents and employees as additional insureds.
- (d) The required coverage shall be maintained in effect throughout the term of this contract.

CONTRACTOR shall require all subcontractors performing work under this contract to obtain substantially the identical insurance coverage required of CONTRACTOR pursuant to this agreement.

#### C-3. INSURANCE COVERAGE REQUIREMENTS.

If required by paragraph 5 of the contract, CONTRACTOR shall maintain the following insurance policies in full force and effect during the term of this contract:

- (a) Comprehensive general liability insurance. CONTRACTOR shall maintain comprehensive general liability insurance, covering all of CONTRACTOR's operations with a combined single limit of not less than the amount set out in paragraph 5 of this contract.
- (b) Professional liability insurance. CONTRACTOR shall maintain professional liability insurance with liability limits of not less than the amount set out in paragraph 5 of this contract.

- (c) Comprehensive motor vehicle liability insurance. CONTRACTOR shall maintain comprehensive motor vehicle insurance covering all motor vehicles (including owned, non-owned and hired) used in providing services under this contract, with a combined single limit of not less than the amount set out in Paragraph 5 of this contract.
- (d) Workers' compensation insurance. CONTRACTOR shall maintain a workers' compensation plan covering all of its employees as required by California Labor Code Section 3700, either through workers' compensation insurance issued by an insurance company or through a plan of self-insurance certified by the State Director of Industrial Relations. If CONTRACTOR elects to be self-insured, the certificate of insurance otherwise required by this contract shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations.

#### **C-4. CERTIFICATE OF INSURANCE.**

Prior to the commencement of performance of services by CONTRACTOR and prior to any obligations of COUNTY, CONTRACTOR shall file certificates of insurance with COUNTY, showing that CONTRACTOR has in effect the insurance required by this contract. CONTRACTOR shall file a new or amended certificate promptly after any change is made in any insurance policy which would alter the information on the certificate then on file. In lieu of providing proof of insurance, CONTRACTOR may provide proof of self-insurance meeting requirements equivalent to those imposed herein. CONTRACTOR warrants that CONTRACTOR's self-insurance provides substantially the same protection to COUNTY as the insurance required herein. CONTRACTOR further agrees to notify COUNTY in the event any change in self-insurance occurs that would alter the obligations undertaken in this contract within thirty (30) days of such change.

#### **C-5. RECORDS TO BE MAINTAINED.**

CONTRACTOR shall keep and maintain accurate records of all costs incurred and all time expended for work under this contract. CONTRACTOR shall contractually require that all of CONTRACTOR's subcontractors performing work called for under this contract also keep and maintain such records. All such records, whether kept by CONTRACTOR or any subcontractor, shall be made available to COUNTY or its authorized representative, or officials of the State of California for review or audit during normal business hours, upon reasonable advance notice given by COUNTY, its authorized representative, or officials of the State of California.

#### **C-6. RETENTION OF RECORDS.**

CONTRACTOR shall maintain and preserve all records related to this contract for a period of three years from the close of the fiscal year in which final payment under this contract is made. CONTRACTOR shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the three-year period, if any audit involving such records is then pending, until the audit findings are resolved. The obligation to insure the maintenance of the records beyond the initial three year period shall arise only if the COUNTY notifies CONTRACTOR of the commencement of an audit prior to the expiration of the three year period.

#### **C-7. TITLE TO DOCUMENTS; COPYRIGHT.**

All reports and other materials collected or produced by the CONTRACTOR or any subcontractor of CONTRACTOR shall, after completion and acceptance of the contract, become the property of COUNTY, and shall not be subject to any copyright claimed by the CONTRACTOR, subcontractor, or their agents or employees. CONTRACTOR may retain copies of all such materials exclusively for administrative purposes. Any use of completed or uncompleted documents for other projects by CONTRACTOR, any subcontractor, or any of their agents or employees, without the prior written consent of COUNTY is prohibited.

#### **C-8. INDEPENDENT CONTRACTOR.**

CONTRACTOR and its officers and employees, in the performance of this contract, are independent contractors in relation to COUNTY and not officers or employees of COUNTY. Nothing in this contract shall create any of the rights, powers, privileges or immunities of any officer or employee of COUNTY. CONTRACTOR shall be solely liable for all applicable taxes or benefits, including, but not limited to, federal and state income taxes, Social Security taxes, or ERISA retirement benefits, which taxes or benefits arise out of the performance of this contract. CONTRACTOR further represents to COUNTY that CONTRACTOR has no expectation of receiving any benefits incidental to employment.

#### **C-9. CONFLICT OF INTEREST.**

CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. CONTRACTOR further covenants that, in the performance of this contract, no subcontractor or person having such an interest shall be used or employed.

#### **C-10. COMPLIANCE WITH APPLICABLE LAWS.**

CONTRACTOR shall comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the work and providing the services specified in this contract. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this contract.

#### **C-11. NONDISCRIMINATION.**

CONTRACTOR shall not discriminate in the employment of persons necessary to perform this contract on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.

#### **C-12. BANKRUPTCY.**

CONTRACTOR shall immediately notify COUNTY in the event that CONTRACTOR ceases conducting business in the normal manner, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors.

**C-13. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION OF DUTIES.**

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated by CONTRACTOR without the prior written consent of COUNTY, and any attempted assignment or delegation without such consent shall be void.

**C-14. NEGOTIATED CONTRACT.**

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code Section 1654.

**C-15. SEVERABILITY.**

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect. To this end, the provisions of this contract are declared to be severable.

**C-16. ENTIRE CONTRACT.**

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference.

**C-17. TIME IS OF THE ESSENCE.**

Time is of the essence in the performance of this contract.

**C-18. TERMINATION.**

Either party may terminate this contract, with or without cause, at any time. In order to terminate this contract, the terminating party shall give advance written notice to the other party. The termination shall be effective no earlier than the expiration of the number of days specified in paragraph 6 of this contract. The termination notice shall be made as specified in paragraph C-19, below. In the event of termination, COUNTY shall pay CONTRACTOR for all work satisfactorily performed prior to the effective date of the termination.

**C-19. NOTICES.**

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrator personally, by regular mail, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

- (a) The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or
- (b) Five days after the date the notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, with first-class postage fully prepaid; or

- (c) On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 8 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, on the same day as the facsimile transmission is made.

#### **C-20. RESPONSIBILITY OF CONTRACT ADMINISTRATORS.**

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the respective contract administrators or to the party's employee specified, in writing, by the contract administrator. A party may, in its sole discretion, change its designation of its contract administrator and shall promptly give written notice to the other party of any such change.

#### **C-21. MATERIALITY.**

The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

#### **C-22. WAIVER.**

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. COUNTY's receipt of consideration with knowledge of CONTRACTOR's violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

#### **C-23. AUTHORITY AND CAPACITY.**

CONTRACTOR and CONTRACTOR's signatory each warrant and represent that each has full authority and capacity to enter into this contract.

#### **C-24. BINDING ON SUCCESSORS.**

All of the conditions, covenants and terms herein contained shall apply to, and bind, the heirs, successors, executors, administrators and assigns of CONTRACTOR. CONTRACTOR and all of CONTRACTOR's heirs, successors, executors, administrators, and assigns shall be jointly and severally liable under this contract.

#### **C-25. CUMULATION OF REMEDIES.**

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

#### **C-26. INDEPENDENT ADVICE.**

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also

represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this contract and the rights and duties arising out of this contract, or that such party willingly foregoes any such consultation.

**C-27. NO RELIANCE ON REPRESENTATIONS.**

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

**C-28. REDUCTION OF CONSIDERATION.**

CONTRACTOR agrees that COUNTY shall have the right to deduct from any payments specified in Attachment B any amount owed to COUNTY by CONTRACTOR as a result of any obligation arising prior to, or after, the execution of this contract. For purposes of this paragraph, obligations arising prior to, or after, the execution of this contract may include, without limitation, any property tax, secured or unsecured, which tax is in arrears. If COUNTY exercises the right to reduce the consideration specified in Attachment B, COUNTY, at the time of making a reduced payment, shall give CONTRACTOR notice of the amount of any off-set and the reason for the reduction.

**C-29. COUNTERPARTS.**

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

**END OF ATTACHMENT C.**

**ATTACHMENT D**  
**Specific Terms and Conditions**

**Licensed Architects, Landscape Architects, Professional Engineers and  
Professional Land Surveyors**

The rights and duties of the parties to this contract are additionally governed by the following specific, additional terms and conditions:

**D-1. INDEMNIFICATION.** With regard to CONTRACTOR'S performance of design services under this contract, as those services are defined in California Civil Code section 2782.8, paragraph C-1 of Attachment C to this contract is hereby modified, superceded and replaced by this paragraph D-1. With regard to CONTRACTOR'S performance of services under this contract that are not described in section 2782.8, paragraph C-1 of Attachment C to this contract shall continue to govern the indemnification rights and obligations of the parties.

To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless the COUNTY and its officers, agents, employees and representatives from and against any and all claims, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, COUNTY's employees, and the public, or damage to property, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of CONTRACTOR includes the duty of defense, inclusive of that set forth in California Civil Code section 2778. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this contract. CONTRACTOR shall not be liable under this indemnification provision if COUNTY has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence, recklessness or willful misconduct. CONTRACTOR'S indemnification obligations shall be apportioned pursuant to the principles of comparative fault, according to proof of COUNTY'S negligence, recklessness or willful misconduct, if any. The obligations set forth herein shall continue beyond the terms of this contract.

**D-2. ADDITIONAL SPECIFIC TERMS AND CONDITIONS:** (check one)

There are no additional specific terms and conditions.

The following additional specific terms and conditions shall apply: (Specify)

A. **TITLE TO DOCUMENTS; COPYRIGHT.** Paragraph C-7 of Attachment C to this contract is hereby superceded and replaced by this paragraph D-2(A), and is hereby modified to read as follows:

Although the CONTRACTOR shall be deemed the author of the drawings, specifications, reports, and/or other materials produced under this contract, and shall retain all common law, statutory and other reserved rights, including the copyright, all drawings, specifications, reports and other materials collected or produced by the CONTRACTOR or any subcontractor



of CONTRACTOR shall, after completion and acceptance of the contract, become the property of COUNTY. This Agreement creates a non-exclusive and perpetual license for COUNTY to reuse and modify any and all designs, plans, specifications, studies, drawings, reports and/or other materials for any purpose related to the subject project only. CONTRACTOR represents and warrants that CONTRACTOR has the legal right to license any and all copyrights, designs and other intellectual property embodied in the project documents for the subject project. In the event of any reuse or modification of the drawings, specifications, reports, or other materials by COUNTY, the names and seals of the CONTRACTOR and CONTRACTOR'S subcontractors, if any, shall be removed from the CONTRACTOR'S drawings, specifications, reports and/or other materials, and COUNTY agrees to indemnify, defend and hold the CONTRACTOR harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees, accruing to or resulting from any and all persons, firms, or any other legal entity, on account of any damage or loss to property or persons, including, but not limited to, death, arising out of such reuse or modification of the CONTRACTOR'S drawings, specifications, reports, and/or other materials.

- B. TERMINATION. Paragraph C-18 of Attachment C to this contract is hereby superceded and replaced by this paragraph D-2(B), and is hereby modified to read as follows:

Either party may terminate this contract, with or without cause, at any time. In order to terminate this contract, the terminating party shall give advance written notice to the other party. The termination shall be effective no earlier than the expiration of the number of days specified in paragraph 6 of this contract. The termination notice shall be made as specified in paragraph C-19. In the event of termination, COUNTY shall pay CONTRACTOR for all work satisfactorily performed, consistent with the standard of care pursuant to paragraph D-2(C), prior to the effective date of the termination.

- C. STANDARD OF CARE. This paragraph D-2(C) is hereby added to the general terms and conditions set forth in Attachment C to this contract, to read as follows:

In performing services under this contract, CONTRACTOR will perform such services in a manner consistent with that degree of care and skill ordinarily exercised by professionals currently practicing under similar circumstances.

- D-3. HARMONIZATION OF CONTRACT TERMS. Where the specific terms and conditions set forth in this Attachment D specifically conflict with the general terms and conditions set forth in Attachment C to this contract, the more specific terms and conditions shall be deemed to control. However, the general terms and conditions in Attachment C shall remain in full force and effect, to the extent they do not specifically conflict with the specific terms and conditions set forth in this Attachment D.

END OF ATTACHMENT D.