

C O N T R A C T

The COUNTY OF SAN BENITO ("COUNTY") and In Studio Architecture ("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 September 25, 2018, and end on June 30, 2020, 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: John Guertin

Title: Resource Management Agency Director

Address: 2301 Technology Parkway

Hollister, California 95023

Telephone No.: 831-636-4170

Fax No.: 831-636-4176

Contract Administrator for CONTRACTOR:

Name: Alex Reynoso

Title: Principal

Address: 250 Main Street

Salinas, CA 93901

Telephone No.: 831-320-2655

Fax No.:

SIGNATURES

APPROVED BY COUNTY:

Name: Anthony Botelho

Chair, Board of Supervisors

Date: _____

APPROVED BY CONTRACTOR:

Name: _____

Title: _____

Date: _____

APPROVED AS TO LEGAL FORM:

San Benito County Counsel's Office

By: G. Michael Ziman, Deputy County Counsel

Date: _____

ATTACHMENT A

SCOPE OF SERVICES

Architect shall provide architectural and engineering services for tenant improvements of the County's existing facility located at 1161 San Felipe Road in Hollister, CA. Services shall include the following:

Project: Building Tenant Improvements to accommodate an 8-10 unit Transitional Housing space at the County's Homeless Services Center.

1. General

1.1. Architect's Basic Services consist of the design services, including landscaping architectural services and landscape irrigation design, civil, structural, mechanical, and electrical engineering services, normally required to complete the Project.

1.2. Schematic Design Phase

1.2.1. The Architect shall review all information concerning the Project delivered or communicated by the County to the Architect to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the County.

1.2.2. The Architect shall provide a preliminary evaluation of the County's Project, schedule, and construction budget requirements, each in terms of the other.

1.2.3. Based on a mutual understanding of the County's requirements, the Architect shall prepare for the County's written approval, Schematic Design Documents, which include schematic design studies, site utilization plans, a description of the Project showing, among other things, the scale and relationship of the components of the Project, preparation of a written statement of Probable Project Construction Cost and a written time schedule for the performance of the work that itemizes constraints and critical path issues.

1.2.4. The Architect shall submit to the County a preliminary Statement of Probable Project Construction Cost based on current area, volume, and other unit costs.

1.3. Design Development Phase

1.3.1. Following County's written approval of the Schematic Design Documents and Statement of Probable Project Construction Cost, Architect shall provide all necessary architectural and engineering services to prepare Design Development Documents fixing and describing the size and character of the project and which shall include site and floor plans, elevations and other approved drawings and shall outline the specifications of the entire Project as to kind and quality of materials, categories of proposed work such as architectural, structural, mechanical and electrical systems, types of structures and all such other work as may be required.

1.3.2. The Architect shall advise the County of any adjustments to the preliminary Statement of Probable Project Construction Cost.

1.4. Contract Documents Phase

1.4.1. Following the County's written approval of the Design Development Documents and any adjustments to the construction budget, the Architect shall prepare for

the written approval of County, Contract Documents consisting of complete working drawings and specifications setting forth in detail sufficient for construction the work to be done and the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system and utility-service-connected equipment and site work.

- 1.4.2. Unless the County informs Architect that County will be responsible for preparing bid documents, the Architect shall prepare all bid documents during the Contract Documents Phase of the Project, and forward them to the County for written approval prior to their use.
- 1.4.3. The Architect shall submit the Contract Documents to the governing agency for plan check, and make the necessary corrections to secure permit approval.
- 1.4.4. The Architect shall give the County, at the time of permit approval of the final form of the Contract Documents, Architect's final estimate Statement of Probable Project Construction Cost.

1.5. Bidding and Negotiations Phase

- 1.5.1. Following the governing agency and County's written approval of Contract Documents and County's written acceptance of Architect's final Statement of Probable Project Construction Cost, Architect shall reproduce the Contract Documents in the number requested by the County and distribute the Contract Documents among interested contractors. Architect shall also direct the obtaining of bids, and shall assist the County in evaluating contract proposals or bids and substitutions proposed by contractors, and in awarding the bids. All sets of Contract Documents, which does not include those for the use of the Architect or its consultants, requested by the County shall be reproduced at County's cost, reproductions shall be done at County requested location and billed directly to County.
- 1.5.2. Architect's Statement of Probable Project Construction Cost at the time of permit approval of the Contract Documents shall be current as of that date. Should bids be received more than ninety (90) days after the date of that Project Construction Cost, the Architect's Project Construction Cost shall be escalated by the cost-of-construction in the then current mutually agreed upon recognized building cost index.
- 1.5.3. The Architect shall review the qualifications of all bidders for the construction of the Project, and shall make recommendations to the County as to whether, in the Architect's professional opinion, a bidder meets the minimum requirements.

1.6. Construction Administration Phase

- 1.6.1. The construction phase shall begin on the date stated in the official Notice to Proceed and, solely for purposes of payment of the Architect, shall be deemed complete upon County's written approval of Architect's final certificate for payment to Contractor. Such certification and payment shall not constitute an admission by Architect or County that the Project has been completed in accordance with Contract Documents or in conformance with this Agreement.
- 1.6.2. All instructions to the Contractor shall be forwarded through the Architect. The Architect shall advise, consult with, and serve as the County's representative in the general administration of the Contract for Construction and in County's dealings with the Contractor, however, the Architect will have authority to act on behalf of the County only to the extent provided in the Contract Documents.

- 1.6.3. The Architect shall timely provide County with copies of all correspondence between the Architect and the Contractor.
- 1.6.4. The Architect shall timely review and approve, take exception to or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples for conformance to design intent and information in the Contract Documents.
- 1.6.5. Architect shall include requirements in the Contract Documents that the Contractor prepare an accurate set of as built record drawings indicating dimensions and locations of buried utility lines (showing as-built dimensions) which shall be updated monthly and forwarded to the County upon completion of the Project. While Architect cannot guarantee precise accuracy of such drawings, Architect shall exercise reasonable care in reviewing such drawings to determine their general compliance with the Contract Documents. Architect shall have no responsibility for their conformity to field conditions. Except that in the event that the Architect, consistent with standards of due care, becomes aware of non-conformity with field conditions, Architect shall have a duty immediately to notify the County in writing.
- 1.6.6. The Architect shall, at all times, have access to the Project wherever it is in preparation and progress. The Contractor shall provide facilities for such access so that the Architect may perform its functions under the Agreement and Contract Documents.
- 1.6.7. In the discharge of its duties of observation and interpretation, the Architect shall require Contractors to comply with the Contract Documents, and shall guard the County against defects and deficiencies in the work of the Contractor. The Architect shall advise and consult with the County concerning the Contractor's compliance with the Contract Documents and shall assist the County in securing the Contractor's compliance. The Architect shall visit the site, both as the Architect deems necessary and as requested by the County, to maintain familiarity with the quality and progress of the Project, to determine that the Contractor's work substantially complies with all documents, drawings, plans and specifications and that the Project is progressing in substantial accordance with the Contract Documents. Such observations are to be distinguished from the continuous inspection provided by the Project Inspector. The Architect shall not be required to make inspections, exhaustive or continuous on-site observations to check the quality or quantity of the work.
- 1.6.8. The Architect shall notify the County promptly of any significant defect in materials, equipment, or workmanship, and of any default by any Contractor in the orderly and timely prosecution of the Project.
- 1.6.9. The Architect shall review and take other appropriate action upon contractually required submittals such as schedules, shop drawings, samples, product data and other required submissions of the Contractor to determine general conformance with the Project design and specifications as set forth in the Contract Documents including submittals required for Change Orders. The Architect will have the authority to recommend to the County to reject work and materials or submittals that do not conform to the Contract Documents. The Architect's approval of a specific item shall not be an approval of an assembly of which the item is a component. Whenever, in the Architect's reasonable judgment, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to recommend to the County special inspection or testing of the work or materials in accordance

with the Contract Documents whether or not such work or materials be then fabricated, installed, or completed. The Architect will also have the authority to recommend to the County to approve substitution of materials or equipment when, in the Architect's reasonable judgment, such action is necessary to the accomplishment of the intent and purpose of the Contract Documents so long as substitution does not increase costs or time to complete the project. The Architect's actions as described in this paragraph shall be taken with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the contractor, all of which remains the responsibility of the contractor to the extent required by the Contract Documents. Architect's approval of a submittal shall not constitute approval of substitutions or alternatives to the Construction Documents if not identified as such by the contractor. Such substitution proposal submittals shall be consistent with the submission requirements of the Construction Documents. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences, or procedures. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

- 1.6.10. Architect shall require Contractor to provide assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals and training personnel for operation and maintenance by including appropriate language in the Contract Documents, as agreed by Architect and County.
- 1.6.11. The Architect shall not be responsible for construction means, methods, techniques, sequences, or procedures, coordination of subcontractor's work, or for safety precautions or programs in connection with the work. The Architect shall not be responsible for acts or omissions of the Contractor, subcontractors, or their agents or employees or of any other persons performing portions of the Project not employed or retained by Architect, unless due to the Architect's intentional or negligent act or failure to act.
- 1.6.12. The Architect will, consistent with standards of due care, make reasonable professional efforts to exclude substances that are banned by law for use in public works construction projects, including asbestos, lead based paint and PCB from new construction. In the event the County or Architect is or becomes aware of the presence of, or exposure of persons to, asbestos, polychlorinated biphenyl (PCB) or any other toxic or hazardous contaminants, materials, air pollutants or water pollutants at the Project site ("Hazardous Substances"), or the substantial risk thereof, each shall have a duty immediately to notify the other in writing. The parties recognize, however, that neither Architect nor the County is trained or licensed in the recognition or remediation of Hazardous Substances.
If the Architect has recommended and the County has agreed to retain a qualified consultant to evaluate the presence of asbestos and asbestos containing materials at a certain County facility included in the scope of this Agreement, in the event that said consultant recommends a procedure to deal with such

materials, said consultant shall have the responsibility to draft specification language for the removal or other remediation of such materials, and subsequently may be required to certify that they have been properly removed or otherwise remediated. Architect shall include consultant's recommendations and specifications in the appropriate design documents for modernization and shall, as part of its Basic Services, provide designs and other bid documents consistent therewith.

When construction is properly completed, County's Consultant shall provide such certification as to Hazardous Substances as is required for such projects.

- 1.6.13. Based on the Architect's observations, and an evaluation of each Project Application for Payment, the Architect will review & certify the amounts due to the Contractor and will issue Project Certificates for Payment on Architect's standard form incorporating the appropriate amount in accordance with the Contract Documents. The issuance of a Project Certificate for Payment shall constitute a representation to the Client based upon Architect's observations at the site and data comprising the contractor's applications for payment, that the work has progressed to the point indicated and the quality of the Project work is in accordance with the Contract Documents and that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate of Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality of quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, or (3) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
- 1.6.14. Notwithstanding anything else in this Agreement the Architect shall assist the County in evaluating and responding to claims, disputes and other matters in question between the Contractor and the Client and in such instances provide such truthful testimonial assistance as may be required by the County.
- 1.6.15. The Architect will provide construction advice to the County on apparent deficiencies in construction, both during construction and after acceptance of the Project.
- 1.6.16. The Architect shall recommend, prepare and process the necessary change orders. Payment of fees to the Architect as a result of change orders shall be handled as follows:
 - 1.6.16.1. County initiated change orders. If a change order is requested by the County, the Architect's fee for such change order shall be calculated on a percentage or hourly basis as agreed in writing by the County and the Architect prior to commencement of work on the change order. If a change order is solicited by the County from the Contractor but not subsequently authorized by the County, the Architect shall be paid for time spent on the proposed change order as an Additional Service.
 - 1.6.16.2. Change orders due to Architect negligence. When a change order is necessitated as a result of negligence in the exercise of Architect's professional duties, the Architect's fees shall not be calculated by reference to the cost of any change order work which would not have been necessitated had the work been included in the bid documents.
 - 1.6.16.3. Change orders beyond County or Architect control. If a change order is necessitated as a result of changes in law, in-field changes required by governing agencies after document approval, unknown, unforeseeable or hidden conditions, or actual conditions inconsistent with available drawings of

existing conditions, such change orders shall be handled in the same manner as Client initiated change orders.

- 1.6.17. The Architect shall provide a color schedule of all finish materials in the Project for the County's review and approval.
- 1.6.18. The Architect shall determine the date of final completion and make the final on-site observations of the job with representatives of the County and the Contractor.
- 1.6.19. The Architect shall issue the final Certificate for Payment and any other documents required to be recorded by law or generally accepted architectural or construction contract practice upon compliance with the requirements of the Contract Documents, provided that such certification shall not constitute an admission that the Project has been completed in accordance with Contract Documents or in conformance with this Agreement.
- 1.6.20. The Architect shall assemble and deliver to County all written guarantees, instruction books, diagrams and charts required of Contractors and provide the County with one set of reproducible drawings showing the Project "as built" upon issuance of the Architect's certificate of completion with the location of underground sewer, water and all utility connections and services specially noted.

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 \$ 56,400.00

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. Compensation shall be distributed by phase as follows:

Schematic Design (SD):	\$7,000
Design Development (DD):	\$7,000
Construction Documents (CD):	\$26,400
Back Check (BC):	\$4,000
Bidding (BD):	\$3,000
Construction Administration:	
Not to exceed 6 months	\$7,000
Reimbursable expenses	\$2,000

Total	\$56,400
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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 Benito 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 the design services described in California Civil Code section 2782.8 only, Paragraph C-1 of Attachment C to this contract is hereby modified to read as follows:

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend 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 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 the COUNTY has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence, recklessness or willful misconduct. The obligations set forth herein shall continue beyond the term of this contract.

The provisions of Paragraph C-1 of Attachment C shall remain in full force and effect and shall apply to CONTRACTOR'S provision of all other services under 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)

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.