

C O N T R A C T

The COUNTY OF SAN BENITO ("COUNTY") and Vanir Construction Management, Inc. ("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 November 1, 2018, and end on December 31, 2019, unless terminated in accordance with section 6 below.

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 compensate CONTRACTOR for said services pursuant 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 parties may terminate this agreement as specified in Attachment C. The number of days of advance written notice required for termination of this contract for convenience is (30) days.

7. Specific Terms and Conditions (check one)

- [X] 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: Ray Espinosa

Title: County Administrative Officer

Address: 481 Fourth Street
Hollister, California 95023

Telephone No.: (831) 636-4000

Fax No.: (831) 636-4010

Mobile No.: _____

Contract Administrator for CONTRACTOR:

Name: Jerry Avalos

Title: Vice President/Area Manager

Address: 2444 Main Street, Suite 130
Fresno, California 93721

Telephone No.: (559) 496-0536

Fax No.: (559) 860-0173

Mobile No.: (559) 805-5393

SIGNATURES

APPROVED BY COUNTY:

Name: Anthony Botelho

Chair, San Benito County Board of Supervisors

Date: _____

APPROVED BY CONTRACTOR:

Name: Joseph A. Mehula *

Title: President

Date: October 30, 2018

* STEVEN WHITEHEAD, COO

APPROVED AS TO LEGAL FORM:

San Benito County Counsel's Office

Shirley L. Murphy

By: Shirley L. Murphy, Deputy County Counsel

Date: Oct. 30, 2018

ATTACHMENT A

SCOPE OF SERVICES

CONTRACTOR shall prepare a Facilities Master Plan for the COUNTY. This Facilities Master Plan shall develop a comprehensive strategy to accommodate growth, improve operations and efficiencies, build community consensus, and serve as a guide forward for the next 10-20 years.

SCOPE OF WORK

STEP ONE — PROJECT INITIATION AND DATA ACQUISITION

- a. Kick-Off Meeting — Attend a project kick-off meeting with CONTRACTOR team, and appropriate County staff to introduce the team to the COUNTY. Discuss the project goals, program, and timelines; clarify protocol for communication with COUNTY and site visits.
- b. Meeting Minutes — Prepare minutes from the kick-off meeting outlining timelines, milestones, action items, and submittal package requirements.
- c. Data Acquisition — Collect and review all existing documents from the COUNTY including previous facilities plans and capital improvement plans, existing COUNTY facilities inventory list, existing COUNTY facilities building and site plans, existing physical condition inventories of COUNTY facilities including sizes of spaces and current conditions of building systems, the County General Plan and other applicable planning documents, and public works project reports for current and planned maintenance and capital projects.
- d. Department Meetings – The CONTRACTOR will conduct up to three meetings with COUNTY department heads and other representatives to discuss current operations and how they are affected by current conditions such as facilities, location, technology, etc.
- e. Meeting Minutes — Prepare minutes from the department meetings outlining discussion and action items.
- f. Site Visits — The CONTRACTOR will conduct site visits to the facilities included in the master plan to assess opportunities and constraints. Aerial photographs will be used to assist the CONTRACTOR in evaluating project area conditions in addition to reconnaissance-level site visits.
- g. Present to COUNTY — Present findings of current operations and conditions to the COUNTY to assure accuracy and completeness. The CONTRACTOR will make revisions as identified in this meeting.

Deliverables: - 25 handouts of COUNTY current operations and conditions.

STEP TWO — PLANNING AND PROGRAMMING

- a. Planning and Programming Kick-Off Meeting — Meeting with CONTRACTOR team and appropriate County staff to discuss available State and County demographic projections, COUNTY service demand forecasts, potential growth locations within the COUNTY, and potential COUNTY operations changes or improvements.
- b. Meeting Minutes — Prepare minutes from the planning and programming kick-off meeting memorializing discussion of demographics, service demand levels, COUNTY growth, and COUNTY operations changes. Minutes will include timelines, milestones, action items, and submittal package requirements.
- c. Demographic Projections — The CONTRACTOR will utilize State of California Department of Finance (DOF) demographic forecasts together with any existing COUNTY and/or other local projections/forecasts to develop a range of how many residents the COUNTY should plan for over a 20-year planning horizon. These projections typically include low, moderate, and high growth projections for comparison.
- d. Service Demand Forecasts — Based on historical COUNTY service levels and/or other service level standards identified combined with the demographic projections, the CONTRACTOR will develop projected COUNTY department staffing projections.
- e. Identify Growth Locations — Based on historical and projected COUNTY population growth, the CONTRACTOR will develop maps to show how the location of COUNTY services and facilities may evolve over time to efficiently accommodate growth.
- f. Programming Guidelines — The CONTRACTOR will prepare a set of programming guidelines including space standards, design considerations, and site planning standards for use in evaluating current and proposed facilities.
- g. Existing Facilities Evaluation — The CONTRACTOR, working with the COUNTY, will prepare an evaluation of existing facilities with determination of which facilities should be retained and which facilities should be planned for replacement. This evaluation will include consideration of physical condition, expansion capability, and location.
- h. Meet with COUNTY staff — Meet with County staff bi-weekly to review Demographic Projections, Service Demand Forecasts, Growth Locations, Programming Guidelines, and Existing Facilities Evaluation. Revise as needed based on COUNTY comments.
- i. Public Workshop/Meeting — Present overall Master Plan process, review Demographic Projections, Service Demand Forecasts, Growth Locations, Programming Guidelines, and Existing Facilities Evaluation for input. Meet with COUNTY after the meeting to review public comments and agree on any revisions.

- j. Board of Supervisors Presentation — Present overall Master Plan process, review Demographic Projections, Service Demand Forecasts, Growth Locations, Programming Guidelines, Existing Facilities Evaluation, and Public Workshop comments for input. Revise as needed based on COUNTY comments.

Deliverables: - 25 color spiral bound handouts of the Power Point Presentation for the Public Workshop/Meeting
 - up to 100 black & white handouts of the Power Point Presentation for the Public Workshop/Meeting

STEP THREE — ALTERNATIVE SOLUTIONS AND ANALYSIS

- a. Alternative Solutions and Analysis Kick-Off Meeting — Meeting with CONTRACTOR team and appropriate County staff to review process for developing alternative master plan solutions and considerations.
- b. Meeting Minutes — Prepare minutes from the alternative solutions and analysis kick-off meeting memorializing discussion. Minutes will include timelines, milestones, action items, and submittal package requirements.
- c. Alternative Solutions — Working with the COUNTY, the CONTRACTOR will develop up to three alternative solutions to address growth, existing facilities, and operational efficiencies.
- d. Conceptual Project Cost Estimates — Prepare conceptual cost estimate for each alternative solution. Provide an estimate of deferred maintenance costs, as well as capital costs to design and construct new facilities and/or modernize existing facilities.
- e. Meet with COUNTY staff — Meet with County staff bi-weekly to review Alternative Solutions and Analysis, and Conceptual Cost Estimates. Revise as needed based on COUNTY comments.
- f. Public Workshop/Meetings — Up to two public workshop/meetings to review the development of Alternative Solutions and Analysis, and Conceptual Cost Estimates and solicit input. Meet with COUNTY after each meeting to review public comments and agree on any revisions.
- g. Board of Supervisors Initial Presentation — Present the development of Alternative Solutions and Analysis, and Conceptual Cost Estimates. Respond to Q & A and other comments. Revise as needed based on COUNTY comments.
- h. Board of Supervisors Final Presentation — Present Final Alternative Solutions and Analysis, and Conceptual Cost Estimates. Respond to Q & A and other comments. Board to Supervisors to make final determination of selected alternative.

Deliverables:- Four to Six presentation boards of alternative solutions
 - 25 color spiral bound handouts of the Power Point Presentation for the Public Workshop/Meetings

- 100 stapled black & white handouts of the Power Point Presentation for the Stakeholder meeting
- Electronic copies of all documents in pdf format.

STEP FOUR — FACILITIES MASTER PLAN

- a. Facilities Master Plan Kick-Off Meeting — Meeting with CONTRACTOR team and appropriate County staff to discuss the process for developing the final master plan.
- b. Meeting Minutes — Prepare minutes from the facilities master plan kick-off meeting memorializing discussion. Minutes will include timelines, milestones, action items, and submittal package requirements.
- c. Conceptual Designs and Visualizations – The CONTRACTOR will prepare conceptual designs of major components of the facilities master plan including proposed new facilities, modernizations, and additions. Conceptual designs may include diagrams, conceptual floor plans, diagrammatic site plans, 3-D renderings of building massing, etc.
- d. Conceptual Project Cost Estimates — Conceptual cost estimate of deferred maintenance costs, as well as capital costs to design and construct new facilities and/or modernize existing facilities will be refined based on conceptual designs and visualizations.
- e. Prepare Draft Master Plan — Draft Facilities Master Plan for submittal to the COUNTY for review and comment. Report to include all information developed in all four steps outlined in this scope of work.
- f. Public Workshop/Meetings — Up to two public workshop/meetings to review the Draft Facilities Master Plan and solicit input. Meet with COUNTY after each meeting to review public comments and agree on any revisions.
- g. Board of Supervisors Initial Presentation — Present the Draft Master Plan and respond to Q & A and other comments. Revise as needed based on COUNTY comments.
- h. Board of Supervisors Final Presentation — Present Final Facilities Master Plan and respond to Q & A and other comments. Board to Supervisors to make final determination to adopt the Facilities Master Plan.

- Deliverables:
- 24 color copies of the Final Facilities Master Plan bound.
 - Electronic versions of the Final Facilities Master plan in native file format and pdf.

**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 \$ 275,000.00 _____,

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: (Specify)

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. CONTRACTOR certifies that no one who has or will have any financial interest under this contract is an officer or employee of COUNTY.

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 the execution of this contract. For purposes of this paragraph, obligations arising prior to 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 shall give CONTRACTOR notice of the amount of any off-set and the reason for the deduction.

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.