

## AMENDMENT TO CONTRACT

# 2

The County of San Benito (“COUNTY”) and Metropolitan Planning Group (M-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 January 1, 2018.

#### 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: June 12, 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 June 30, 2019, to a new expiration date of June 30, 2020.

#### 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 Scope of Services:**

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

#### **New Scope of Services:**

( Please see Attachment A to this Amendment to Contract #1. )

**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 Payment Terms:**

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

**New Payment Terms:**

( Please see Attachment B to this Amendment to Contract #1. )

**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:

**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, as amended (Exhibit 1) which are not changed by this amendment shall remain the same.

**CONTRACTOR:**

Metropolitan Planning Group (M-Group)

\_\_\_\_\_  
By: Geoff Bradley, AICP, President/Principal

\_\_\_\_\_  
Date

**COUNTY:**

San Benito County Board of Supervisors

\_\_\_\_\_  
By: Mark Medina, Chair

\_\_\_\_\_  
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**  
**( Amendment to Contract #2 )**

Upon approval of this amendment, Contractor, for County's benefit shall provide professional planning services, such as:

- Darryl Boyd, Principal Planner will assist the Planning Division in processing development review projects in a timely fashion by providing oversight and management support with a focus on providing excellent customer service and meeting stakeholder expectations. His project management efforts will be undertaken in close collaboration with the County's management and Planning team.
- Mr. Boyd will also provide assistance in managing the division by making improvements to the work flow and standard operation procedures necessary for a high functioning division focused on customer service and meeting stakeholder expectations.
- Mr. Boyd is available to work a flexible schedule in response to County's planning needs up to 4 days per week. Additional Contractor planning staff can be made available if needed.

**END OF ATTACHMENT A.**

**ATTACHMENT B**  
**Payment Schedule**  
**( Amendment to Contract #2 )**

**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 \$ 510,000.00

to add additional compensation in an amount not to exceed \$225,000.00 to the Original Contract amount (as previously amended to date, \$285,000.00) for the additional services described in Attachment A (Scope of Services) to Amendment to Contract #2; and pursuant to the special compensation terms specified in the Attachment B to Amendment to Contract #2.

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

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

Staff	Hourly Rate
Admin Analyst Planning Tech	\$75.00
Assistant Planner Assistant Urban Designer Social Media Coordinator	\$90.00
Associate Planner Associate Urban Designer	\$115.00
Environmental Planner Historic Preservation Specialist Public Art Specialist	\$130.00
Senior Planner Senior Urban Designer Senior Environmental Planner Project Manager	\$140.00
Principal Planner Principal Environmental Planner Director of Urban Design	\$160.00
Principal	\$200.00-250.00

**END OF ATTACHMENT B.**

**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 Metropolitan Planning Group (M-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 February 21, 2018.

**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 June 30, 2018 , to a new expiration date of June 30, 2019.

**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 Service**

(No 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:**

This contract amendment requires additional compensation in an amount not to exceed \$190,000 in order to continue providing professional planning and management services as described in Attachment A (Scope of Services) to the original contract (Exhibit 1), for a total amount not to exceed \$285,000. M-Group has assigned a Principal Planner, Darryl Boyd to provide these professional planning services to the County.

Accordingly, 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 \$285,000.00, comprising the original contract amount (\$95,000.00) and Amendment #1 (\$190,000.00) 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 of Attachment B to the original contract (Exhibit 1).

All other provisions of Attachment B to the original contract (Exhibit 1) shall remain in effect, except as expressly modified in this Amendment.

- 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 I) 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:

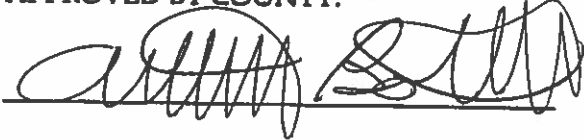
Other Modified or New Terms:  
(Insert other modified or new terms.)

**3. Other Terms.**

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

**SIGNATURES**

APPROVED BY COUNTY:



Name: Anthony Botelho

Chair, San Benito County Board of Supervisors

Date: 6/12/18

APPROVED BY CONTRACTOR:



Name: Heather C. Bradley

Title: Principal

Date: 5/22/2018

APPROVED AS TO LEGAL FORM:

San Benito County Counsel



Sarah M. Dickinson,  
Interim Assistant County Counsel

Date: 5/24/2018

**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.)

## CONTRACT

The COUNTY OF SAN BENITO ("COUNTY") and Metropolitan Planning Group (M-Group) ("CONTRACTOR") enter into this contract which shall be effective on the date stated in Paragraph

1. Duration of Contract.

This contract shall commence on January 1, 2018, and end on June 30, 2018, unless sooner terminated as specified herein. Contract may also be extended at the discretion of the RMA Director.

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: \$1,000,000

6. Termination.

The number of days of advance written notice required for termination of this contract is 5.

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.

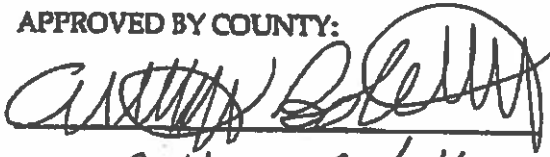
The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for COUNTY:  
Name: John P. Guertin  
Title: Director, RMA San Benito County  
Address: 2301 Technology Parkway  
Hollister, California 95023  
Telephone No.: 831-902-2269  
Fax No.: 831-637-5334  
Email: iguertin@cosb.us


Contract Administrator for CONTRACTOR:  
Name: Heather G. Bradley  
Title: Principal  
Address: 307 Orchard City Drive #100  
Campbell, CA 95008  
Telephone No.: 409-340-5642 x 103  
Fax No.: n/a  
Email: hbradley@m-group.us

SIGNATURES

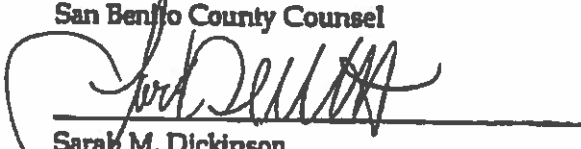
APPROVED BY COUNTY:

  
Name: Anthony Botelho  
Chair, San Benito County Board of Supervisors  
Date: 2/21/18

APPROVED BY CONTRACTOR:

  
Name: Heather G. Bradley  
Title: Principal  
Date: 2/13/18

APPROVED AS TO LEGAL FORM:  
San Benito County Counsel

  
Sarah M. Dickinson,  
Interim Assistant County Counsel  
Date: February 13, 2018

**ATTACHMENT A  
Scope of Services**

Provide planning services to San Benito County as described below:

The following is our scope of work:

Darryl Boyd, Principal Planner will assist the Planning Division in processing development review projects in a timely fashion by providing oversight and management support. For Mr. Boyd's services, County shall pay the hourly rate in accordance with the schedule below. Mr. Boyd's hourly rate as a Principal Planner is \$155.

Mr. Boyd will also provide assistance in managing the division by making improvements to the work flow and standard operation procedures necessary for a high functioning division focused on customer service and meeting stakeholder expectations. All management efforts will be undertaken in close collaboration with the interim management team currently in place.

Mr. Boyd will work approximately two days per week for a total of 16-20 hours per week. Additional M-Group planning staff can be made available if needed pursuant to the hourly rates provided below:

<b>M-Group Staff</b>	<b>Hourly Rate</b>
Admin Analyst; Planning Tech	\$75
Assistant Planner; Assistant Urban Designer; Social Media Coordinator	\$90
Associate Planner; Associate Urban Designer; Associate Environmental Planner	\$115
Historic Preservation Specialist	\$125
Senior Planner; Senior Urban Designer; Senior Environmental Planner; Project Manager	\$140
Principal Planner; Principal Environmental Planner; Director of Urban Design	\$155
Principal	\$200

**END OF ATTACHMENT A.**

**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 \$ 95,000

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)

A. After satisfactorily completing the duties described in this Agreement, COUNTY will reimburse CONTRACTOR in accordance with the rates set forth below:

M-Group Staff	Hourly Rate
Admin Analyst; Planning Tech	\$75
Assistant Planner; Assistant Urban Designer; Social Media Coordinator	\$90
Associate Planner; Associate Urban Designer; Associate Environmental Planner	\$115
Historic Preservation Specialist	\$125
Senior Planner; Senior Urban Designer; Senior Environmental Planner; Project Manager	\$140
Principal Planner; Principal Environmental Planner; Director of Urban Design	\$155
Principal	\$200

- B. The Maximum Compensation payable under this Agreement shall not exceed \$95,000. CONTRACTOR shall not be entitled to payment or reimbursement for any tasks or services performed except as specified herein. CONTRACTOR shall have no claim against COUNTY for payment of any compensation or reimbursement, or any kind whatsoever, for any service provided by CONTRACTOR after the expiration or other termination of this Agreement. CONTRACTOR shall not be paid any amount in excess of the Maximum Compensation amount set forth above, and CONTRACTOR agrees that COUNTY has no obligation, whatsoever, to compensate or reimburse Consultant for any expenses, direct or indirect costs, expenditures, or charges of any nature by CONTRACTOR that exceed the applicable Maximum Compensation amount set forth above. Should CONTRACTOR receive any such payment it shall immediately notify COUNTY and shall immediately repay all such funds to COUNTY. This provision shall survive the expiration or other termination of this Agreement.
- C. On or before the 15<sup>th</sup> of each month, CONTRACTOR shall submit to COUNTY an itemized invoice for all services rendered during the preceding calendar month. COUNTY shall make payment of all undisputed amounts within 30 days of receipt of CONTRACTOR'S invoice. COUNTY shall be obligated to pay only for services properly invoiced in accordance with this section.

**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.**