

AMENDMENT TO CONTRACT

1

The County of San Benito (“COUNTY”) and EMC Planning Group, Inc. (“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 September 25, 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, 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:

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:

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

CONTRACTOR:

EMC Planning Group, Inc.


By: Teri Wissler Adam, Vice President Senior Principal

5-3-19
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

May 10, 2019
Date

EXHIBIT 1
TO AMENDMENT # 1

ORIGINAL
CONTRACT

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

CONTRACT

The COUNTY OF SAN BENITO ("COUNTY") and EMC Planning Group, 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 September 25, 2018, and end on June 30, 2019, 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)*

- [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: 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: Teri Wissler Adam

Title: Senior Principal

Address: 301 Lighthouse Ave., Suite C


Monterey, CA 93940

Telephone No.: 831-649-1799

Fax No.: 831-649-8399

SIGNATURES

APPROVED BY COUNTY:

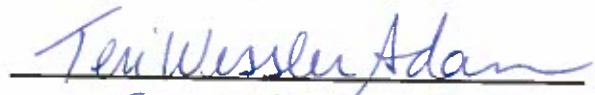


Name: Anthony Botelho

Chair, Board of Supervisors

Date: 9/25/18

APPROVED BY CONTRACTOR:



Name: Teri Wissler Adam

Title: Vice-President / Senior Principal

Date: 9-13-18

APPROVED AS TO LEGAL FORM:

San Benito County Counsel's Office



By: G. Michael Ziman, Deputy County Counsel

Date: September 15, 2018

ATTACHMENT A

SCOPE OF SERVICES

CONTRACTOR shall prepare environmental documentation for the County's proposed 18,000sf Behavioral Health office building to be located on 1.94 vacant acres within the City limits of Hollister.

SCOPE OF WORK:

An initial study will be prepared evaluating the proposed project with the anticipation that the project would qualify for a mitigated negative declaration, and not require preparation of an EIR. Quantitative, technical documentation will be prepared for traffic/circulation consistent with the development scenario identified above. In addition, air quality, biological resources, cultural resources, and greenhouse gas emissions could be considered peculiar to the site and will be evaluated in the initial study.

The following detailed scope of work outlines the tasks proposed to assist the County with CEQA compliance for the proposed project. The tasks identified below will be completed as part of the process to prepare the environmental document.

2.1 INITIATION, ADMINISTRATION, MANAGEMENT AND CONSULTATION

- Prepare project files and general project administration.
- Manage the CEQA process for the county.
- Provide CEQA consultation to the county.
- Manage subconsultant.
- Confer, as needed, with county staff.

2.2 RESEARCH AND DEVELOPMENT/ TECHNICAL REPORTING

- Meet/consult with county staff to discuss the following: project description, environmental documentations prepared for projects in the immediate vicinity, public controversy regarding the project, if any, and the project schedule.
- Gather and analyze data: review relevant reports, files and related materials such as the *City of Hollister General Plan*, and reports including, but not limited to, previous/future projects within the vicinity.
- Conduct a site investigation to document existing conditions on the project site and in the project area.
- Conduct a biological resource evaluation and reconnaissance-level field survey of the project site. This task will include the following:
 - An EMC Planning Group biologist will compile and review all available project information, including aerial photographs, topographic maps, plan maps indicating the areas of potential effect (i.e., tree removal, development envelopes, etc.), and project descriptions.
 - The biologist will conduct a background data search to determine biological resources known to occur in the vicinity of the project area. These data will be obtained from the Inventory of Rare and Endangered Vascular Plants of California (California Native Plant Society), the California Department of Fish and Game (CDFG), Natural Diversity Data Base, lists from CDFG and U. S. Fish and Wildlife Service, the National Wetlands Inventory, and biological inventories conducted on adjacent properties, if available.
 - Conduct a reconnaissance-level field survey of the project area to (1) identify and map the principal plant communities, (2) assess the potential for special status species and their habitats, wildlife movement corridors, potential jurisdictional wetlands or waters, protected trees, and other significant biological resources that may occur in the project area, and (3) identify and map any observed locations of special-status species and/or sensitive habitats occurring in the project area.
 - The biologist will prepare the biological resources section of the initial study describing existing habitats and plant and wildlife species found in the project area, and the occurrence of and/or potential for special-status species and their habitats. Maps will be prepared illustrating habitat types and the location(s) of special-status species occurring in the project area, if necessary.Potential impacts to biological resources will be identified, and mitigation measures will be provided to minimize potential impacts.
- Conduct a cultural resources evaluation of the project site. This task will include the following:
 - An EMC Planning Group archaeologist will conduct a background archival data search of the cultural resources within the subject property boundaries and within a quarter mile of the property, using the Northwest Information Center of the California Historical Resources Information System, affiliated with the State of California Office of Historic Preservation.
 - The archaeologist will initiate a Sacred Lands check with the Native American Heritage Commission, as well as communication with any recommended Native American representatives.
 - The archaeologist will conduct an intensive-level reconnaissance survey of the project area to identify any trace of historical or prehistorical cultural resources, which can include evidence of habitation, ground stone, lithic scatters, or projectile points.

- The archaeologist will prepare the cultural resources section of the initial study describing the methodology and findings of the survey.
- Prepare a traffic assessment (Hexagon Transportation Consultants, see Attachment A).
- Prepare greenhouse gas modeling and climate change evaluation (EMC Planning Group).
- Review the *City of Hollister General Plan EIR* and any additional studies that may be prepared by the county specifically for the project site including, but not limited to, geotechnical studies, hazardous materials studies, and other relevant studies that may have been prepared.

2.3 PREPARE DRAFT INITIAL STUDY

- Prepare the draft initial study and provide one (1) hard copy and one (1) electronic copy to the county for review and comment.
- Revise initial study based upon comments from the county. Assuming the proposed project would qualify for a negative declaration or mitigated negative declaration, the following tasks would be completed. If the county determines that an EIR is required, a scope and budget amendment would be required.

2.4 PREPARE PUBLIC REVIEW INITIAL STUDY, MITIGATED NEGATIVE DECLARATION, AND PUBLIC NOTICES

- Prepare public review negative declaration and initial study and provide thirty (30) hard copies and one (1) electronic copy on CD-ROM.
 - Prepare notice of intent to adopt a negative declaration.
 - Prepare notice of completion for the county to submit to the State Clearinghouse along with the documents.
- Note: This scope of work assumes that county staff will distribute all noticing and documents in compliance with CEQA.

2.5 PREPARE RESPONSE TO COMMENTS AND MITIGATION MONITORING PROGRAM

- Prepare draft response to comments and mitigation monitoring program and provide one (1) electronic copy for review and comment by county staff.
 - Prepare final response to comments and final mitigation monitoring program and provide one (1) hard copy and one (1) electronic copy on CD-ROM.
- This scope assumes that no more than five (5) comment letters would be received and that responses to the comment letters would not require additional analysis.

2.6 ATTEND PUBLIC HEARING

- Attend one public hearing for adoption of the negative declaration.

2.7 PREPARE NOTICE OF DETERMINATION

- Prepare the notice of determination for county staff to file with the San Benito County Clerk and with the State Clearinghouse. Fees are assumed to be paid by the County.

**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 \$ 52,172.50

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:

San Benito County New Behavioral Health Center CEQA Proposal										
EMC Planning Group Inc.										
Task	Senior Principal	Principal	Archaeologist	Associate Planner	Assistant Planner	Senior Biologist	Graphics	Admin./ Production	Total Hours	Total Cost
Billing Rate (Per Hour)	\$210.00	\$205.00	\$155.00	\$130.00	\$115.00	\$150.00	\$115.00	\$95.00		
Task 1. Initiation, Admin., Management and Consultation	2.0	0.0	0.0	10.0	0.0	0.0	0.0	2.0	14.0	\$1,910.00
Task 2. Research and Development / Technical Reporting	0.0	2.0	9.0	12.0	12.0	8.0	0.0	0.0	43.0	\$5,945.00
Task 3. Prepare Draft Initial Study	4.0	0.0	6.0	8.0	40.0	6.0	8.0	4.0	76.0	\$9,610.00
Task 4. Prepare Public Review Documents and Notices	1.0	0.0	0.0	4.0	6.0	0.0	2.0	2.0	15.0	\$1,840.00
Task 5. Prepare Response to Comments and MMRP	1.0	0.0	0.0	6.0	4.0	0.0	0.0	2.0	13.0	\$1,640.00
Task 6. Attend Public Hearing	0.0	0.0	0.0	6.0	0.0	0.0	0.0	0.0	6.0	\$780.00
Task 7. Prepare Notice of Determination	0.0	0.0	0.0	0.0	1.0	0.0	0.0	0.0	1.0	\$115.00
Subtotal (Hours)	8.0	2.0	15.0	46.0	63.0	14.0	10.0	10.0	Total Hours	Total Cost
Subtotal (Cost)	\$1,680.00	\$410.00	\$2,325.00	\$5,980.00	\$7,245.00	\$2,100.00	\$1,150.00	\$950.00	168.0	\$21,840.00
Additional										
Archaeologist CHRIS Database Search										\$400.00
Production Costs										\$750.00
Travel Costs										\$150.00
Postal/Deliverables										\$75.00
Miscellaneous										\$100.00
Administrative Overhead 10%										\$147.50
Total										\$1,622.50
Subconsul										
Hexagon Transportation Consultants										\$26,100.00
Subconsultant Overhead 10%										\$2,610.00
Total										\$28,710.00
Total Costs										\$52,172.50

END OF ATTACHMENT B

ATTACHMENT C

General Terms and Conditions

C-1. INDEMNIFICATION.

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

C-2 GENERAL INSURANCE REQUIREMENTS.

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

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

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

C-3. INSURANCE COVERAGE REQUIREMENTS.

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

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

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

C-4. CERTIFICATE OF INSURANCE.

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

C-5. RECORDS TO BE MAINTAINED.

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

C-6. RETENTION OF RECORDS.

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

C-7. TITLE TO DOCUMENTS; COPYRIGHT.

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

C-8. INDEPENDENT CONTRACTOR.

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

C-9. CONFLICT OF INTEREST.

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

C-10. COMPLIANCE WITH APPLICABLE LAWS.

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

C-11. NONDISCRIMINATION.

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

C-12. BANKRUPTCY.

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

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

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

C-14. NEGOTIATED CONTRACT.

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

C-15. SEVERABILITY.

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

C-16. ENTIRE CONTRACT.

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

C-17. TIME IS OF THE ESSENCE.

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

C-18. TERMINATION.

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

C-19. NOTICES.

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

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

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

C-20. RESPONSIBILITY OF CONTRACT ADMINISTRATORS.

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

C-21. MATERIALITY.

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

C-22. WAIVER.

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

C-23. AUTHORITY AND CAPACITY.

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

C-24. BINDING ON SUCCESSORS.

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

C-25. CUMULATION OF REMEDIES.

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

C-26. INDEPENDENT ADVICE.

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