

# AMENDMENT TO CONTRACT

# 1

The County of San Benito (“COUNTY”) and Vanir Construction Management, 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 June 20, 2017.

### 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 20, 2019, to a new expiration date of December 31, 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 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:**

Vanir Construction Management, Inc.

\_\_\_\_\_  
By: Jerry Avalos, Area Manager/ Associate

\_\_\_\_\_  
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

**EXHIBIT 1  
TO AMENDMENT # 1**

**ORIGINAL  
CONTRACT**

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

## C O N T R A C T

The COUNTY OF SAN BENITO ("COUNTY") and 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 June 20, 2017, and end on June 20, 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. The COUNTY reserves the right to withhold payments to the CONTRACTOR in the event of failure to perform the services specified in Attachment A. 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: \$1,000,000.00 Each Occurrence  
\$ 2,000,000.00 Aggregate.
- (b) Professional liability insurance: \$1,000,000.00
- (c) Comprehensive motor vehicle liability insurance: \$1,000,000.00
- (d) Property Damage: \$1,000,000.00 Each Occurrence \$ 2,000,000.00 Aggregate.
- (e) Workers Compensation & Employer's Liability Insurance: Statutory California Worker's Compensation coverage include broad form all states coverage; Employer's liability coverage for not less than \$1,000,000 per occurrence.

The COUNTY reserves the right to withhold payments to the CONTRACTOR in the event of noncompliance with the insurance requirements outline above.

6. **Termination.**

The number of days of advance written notice required for termination of this contract is 15.

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

There are no additional provisions to this contract.

## 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 June 20, 2017, and end on June 20, 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. The COUNTY reserves the right to withhold payments to the CONTRACTOR in the event of failure to perform the services specified in Attachment A. 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: \$1,000,000.00 Each Occurrence  
\$ 2,000,000.00 Aggregate.
- (b) Professional liability insurance: \$1,000,000.00
- (c) Comprehensive motor vehicle liability insurance: \$1,000,000.00
- (d) Property Damage: \$1,000,000.00 Each Occurrence \$ 2,000,000.00 Aggregate.
- (e) Workers Compensation & Employer's Liability Insurance: Statutory California Worker's Compensation coverage include broad form all states coverage; Employer's liability coverage for not less than \$1,000,000 per occurrence.

The COUNTY reserves the right to withhold payments to the CONTRACTOR in the event of noncompliance with the insurance requirements outline above.

6. **Termination.**

The number of days of advance written notice required for termination of this contract is 15.

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: Ray Espinosa

Title: County Administrative Officer

Address: 481 4th St., 1<sup>st</sup> floor

Hollister, California 95023-3840

Telephone No.: 831.636.4000

Fax No.: (831) 636-4010

**Contract Administrator for CONTRACTOR:**

Name: Jerry Avalos

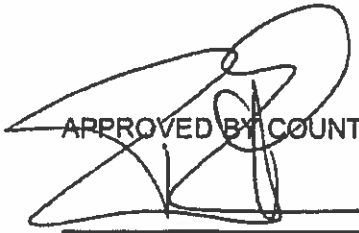
Title: Area Manager/ Associate

Address: 2444 Main Street Suite 130

Fresno, CA 93721

Telephone No.: (916) 496-0536

Fax No.: (559) 860-0173

  
APPROVED BY COUNTY:

Name: Ray Espinosa

County Administrative Officer

Date: 6/19/17

**SIGNATURES**

APPROVED BY CONTRACTOR:

  
Name: Joseph A. Mehula

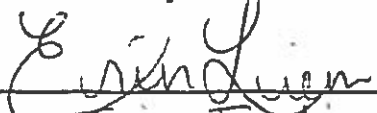
Title: President

Tax ID: 95-3614238

Date: 6/20/17

**APPROVED AS TO LEGAL FORM:**

San Benito County Counsel

  
By: Erin E. Liem

Date: 6/21/17

## ATTACHMENT A Scope of Services

### Construction Phase Services

Vanir's construction manager will be responsible for contract administration and in conjunction with the construction manager will establish and implement the required procedures between the COUNTY, the architect and the contractor. Success during the construction phase depends on the establishment and implementation of proper project controls systems along with the establishment of positive working relationships. Vanir will strive to establish trust among all team members and to keep their focus on the overall success of this project. With the participation and approval of the COUNTY, Vanir will complete the following tasks:

- Task #1 – Construction Procedures Manual: The purpose of this manual is to provide the COUNTY, contractor, construction manager, architect/ engineers, inspector, and the testing lab with information concerning communications and procedures that will be used in the construction of the project name. The Construction Procedures Manual will be the team's road "road map" and the guiding document for management of construction, and project close-out. As a "living" document, the major components of the plan will identify roles and responsibilities, construction oversight and management, control agency liaison, lines of communication and approval, project level budget, project level schedule including AB 900 BSCC milestones, project controls, reporting, systems, procedures, sample documents, and commissioning.
- Task #2 – Submittal/RFI/ASI, etc. Procedures: Vanir will establish and maintain the formal process for submission and tracking of project documents including:
  - submittals,
  - RFI's,
  - ASI's,
  - site observation reports,
  - deficiency items,
  - inspection requests,
  - potential change order and change orders,
  - payment requests,
  - schedule updates and all other contractually required documents.
- Task #3 – Agency Coordination: As required on state-funded projects, our team will facilitate, manage and/or coordinate, with State Fire Marshal, BSCC, local fire, Sheriff, public health, water board, air board, etc.... and the COUNTY vendors (video visitation monitors, radio antenna, medical/dental equipment, IT network equipment); as necessary, for the required inspection/approval or procurement/installation of the various equipment and systems.
- Task #4 – Jobsite Meetings: Our construction manager in conjunction with the COUNTY will conduct regular jobsite progress meetings with the contractor and major subcontractors to identify and resolve issues that may impact the progress of the project.



We will record, transcribe and distribute minutes to all attendees, the COUNTY and all other appropriate parties.

- Task #5 – Quality Assurance: Vanir will work with the COUNTY to develop a quality assurance plan for the construction of the project. This plan will define the technical inspection and testing requirements provided by third parties. All technical inspection requests and reports will be in a format approved by Vanir and will be received and distributed by Vanir on a regular basis.
- Task #6 – Construction Observation: Our construction manager will observe the construction effort for the COUNTY on a daily basis and report any deviations, defects or deficiencies that are observed in the work. We will work with the contractor and the architect in the timely resolution of identified issues to minimize time and cost impacts.
- Task #7 – Construction Progress Review: On a monthly basis we will review the progress of construction with the contractor, observe work in place, identify properly stored materials and evaluate the percentage complete of each construction activity as indicated in the construction schedule. This will serve as data for input to the monthly update report which will be prepared and distributed to all appropriate parties. This report will reflect the contractor's contractual progress and will be the basis for the monthly progress payment to the contractor.
- Task #8 – Monthly Construction Schedule Updates: Vanir will prepare and distribute monthly construction schedule updates. After an evaluation of the actual progress as observed by Vanir, schedule activities will then be assigned percentage complete values in conjunction with the contractor's progress. A report will be generated to reflect actual progress as compared to schedule progress noting variances. This report will also be the basis for determining implementation of certain COUNTY prerogatives concerning progress of the project should they be required.
- Task #9 – Monthly Construction Payment Reports: Vanir will prepare and distribute the monthly construction payment reports which will be an integral function of the monthly schedule report. This report will reflect the total construction contract price, contractor's payment to date, current payment requested, retainage and actual amounts owed for the current period. The final portion of this report will be a certificate of payment which will be executed by Vanir, the architect and the contractor and transmitted to the COUNTY for use in payment to the contractors.
- Task #10 – Change Order Processing System: Vanir will establish and implement a change order processing system. All COUNTY requested changes will first be set forth in a document from the architect outlining in detail the change and accompanied by technical drawings and specifications, if necessary. A request for proposal will be transmitted to the contractor by Vanir and a detailed breakdown of cost and time will be prepared by both the contractor and Vanir prior to negotiation of the change order. Vanir will evaluate the contractor's proposed cost and will make a formal recommendation regarding acceptance of the proposal for a change order.
- Task #11 – Negotiation of Change Order Costs and Time Extensions: Vanir, in conjunction with the COUNTY, will negotiate change order costs and time extensions on

behalf of the COUNTY. Vanir will advise the COUNTY of acceptability of price and time extension prior to the execution of any change order.

- Task #12 – Claims Avoidance: Claims avoidance has the highest priority at Vanir, and we are proud of our record of performance in this area. Honest parties can have reasonable, justifiable disagreements over construction claims issues and still resolve these matters by maintaining a professional demeanor. Our team believes that disputes should be resolved at the earliest possible time and that they should be resolved fairly. When disputes do arise, our approach is to research the facts around the issue thoroughly, bring all parties involved to the table, discuss the matter and reach resolution. In our efforts to bring amicable resolution to disputes, we have used several alternative dispute resolution procedures such as Dispute Resolution Boards and Mediation.
- Task #13 – Instruction Manuals & Training: Prior to the conclusion of construction we will work with the contractor and subcontractors to obtain all written material such as operations and maintenance manuals, warranties and guarantees for all equipment installed in the project. These will be transmitted to the appropriate COUNTY staff for review prior to scheduling operations and maintenance training.
- Task #14 – Record Documents: Vanir will perform coordination and expediting functions in connection with the contractor's obligation to provide "record" documents. Although the transmittal of final record documents takes place at the end of the project it is imperative that this activity be monitored from the beginning of construction to assure accurate documents are available.
- Task #15 - Systems Training: Training will be incorporated into the contract documents for maintenance operations and custody staff. We will assist in the training for the opening of a new institution.
- Task #16 – Final Completion: Upon completion of all punch list corrective action, Vanir will make a final comprehensive review of the project and issue a report to the COUNTY indicating the work performed is acceptable under the contract and make recommendations as to final payment to the contractor and acceptance of the facility.

#### Construction Manager

Vanir will designate a Sr. Construction Manager, who, as long as his performance continues to be acceptable to the COUNTY, shall remain in charge of the services for the Project from beginning and through completion of construction support services provided for in this scope of services. If the designated Sr. Construction Manager is unavailable due to extenuating circumstances, Vanir will provide a replacement subject to San Benito COUNTY's prior written approval.

**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 \$954,040.00

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 and 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)

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced one month in arrears.

CONTRACTOR billing will be based on actual time spent on tasks 1-16 according to the following hourly rates:

<b>Schedule of Rates for Personnel Costs</b>	
<b>Position</b>	<b>Rate</b>
Project Director	\$210
Senior Construction Manager	\$170
Construction Manager	\$150
Administrative Assistant	\$60
Estimator	\$150
Scheduler	\$150

Billing will NOT be on a per task basis. The below chart has estimated fees based on tasks. However, the CONTRACTOR will not bill COUNTY on a per task basis. CONTRACTOR will bill on an hourly basis, and will not exceed the below fees on a per task basis as broken down in the below chart:

**San Benito County AB 900 Jail Project  
Construction Management Services - Fee by Task Breakdown**

Tuesday, June 13, 2017

<b>Base Services</b>	<b>Optional Services</b>	<b>Fee per Task</b>
Task #1 – Construction Procedures Manual:		\$5,040
Task #2 – Submittal/RFI/ASI, etc. Procedures:		\$423,000
Task #3 – Agency Coordination:		\$72,000
Task #4 – Jobsite Meetings:		\$35,000
Task #5 – Quality Assurance:		\$18,000
Task #6 – Construction Observation:		\$32,000
Task #7 – Construction Progress Review:		\$32,000
Task #8 – Monthly Construction Schedule		\$32,000
Task #9 – Monthly Construction Payment		\$24,000
Task #10 – Change Order Processing System:		\$60,000
Task #11 – Negotiation of Change Order Costs		\$60,000
Task #12 – Claims Avoidance:		\$35,000
Task #13 – Instruction Manuals & Training:		\$28,000
Task #14 – Record Documents:		\$28,000
Task #15 – Systems Training:		\$28,000
Task #16 – Final Completion:		\$30,000
	<b>Sub-total</b>	<b>\$942,040</b>
	<b>Reimbursables</b>	<b>\$12,000</b>
	<b>TOTAL</b>	<b>\$954,040</b>
	Transition Phase Task No. 1 - 5	\$20,000
	Warranty Phase Task No. 1	\$38,000

Tasks 1-16 are further detailed in Attachment A to this Contract, Scope of Services, incorporated herein by reference. This contract does not include the optional services noted in the chart above. Should COUNTY desire these optional services, these will be added through an amendment to this Contract.

**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.**



**Construction Management, Inc.**

4540 Duckhorn Drive / Suite 300  
Sacramento, CA 95834  
TEL 916-575-8888  
FAX 916-575-8887  
www.vanir.com

June 20, 2017

Ms. Janet Slihsager, Asst. Clerk of the Board  
481 Fourth Street, 1st Floor  
Hollister, CA 95023  
(831)636-4000, Ext. 11

**RE: San Benito County Contract**

Dear Ms. Slihsager:

Please find two (2) originals of the above-mentioned contract, both signed on behalf of Vanir.

Please sign both and send one (1) wet-signed original back to our office at:  
**4540 Duckhorn Drive Suite 300 Sacramento, CA 95834, Attn: Carolyn Casey.**

Please keep one (1) original for your records.

Thank you.

Very truly yours,  
VANIR CONSTRUCTION MANAGEMENT, INC.

  
Carolyn Casey  
Contracts Administrator

cc: T. Lessley  
J. Avalos  
Contract File TBD (#4446)