

AMENDMENT TO CONTRACT

1

The County of San Benito (“COUNTY”) and Rincon Consultants (“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 August 8, 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 30, 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:

Rincon Consultants

By: Walt Hamann, Vice President

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 Rincon Consultants, 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 August 8, 2017, 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: Larry Perlin

Title: Interim 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: Ed De La Llave

Title: Project Manager

Address: 437 Figueroa St., Suite 203


Monterey, CA 93940

Telephone No.: 831-333-0310

Fax No.: 831-333-0310

SIGNATURES

APPROVED BY COUNTY:



Name: Jaime De La Cruz

Chair, County Board of Supervisors

Date: 8/8/17

APPROVED BY CONTRACTOR:



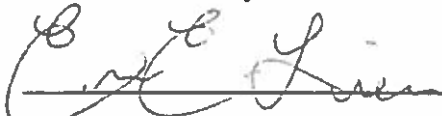
Name: Walt Hamann

Title: Vice President

Date: 7/13/17

APPROVED AS TO LEGAL FORM:

San Benito County Counsel's Office



By: Erin E. Liem, Deputy County Counsel

Date: 7/27/17

ATTACHMENT A

SCOPE OF SERVICES

CONTRACTOR shall provide Storm Water Pollution Prevention Plan (SWPPP) inspection services for the County Jail Project located at 710 Flynn Road in Hollister, California. The County requires SWPPP services to maintain compliance with the Construction General Permit 2009-0009- DWQ, as amended by 2010-0014- DWQ and 2012-006-DWQ (CGP). Qualified SWPPP Developer (QSD) services will include preparation of SWPPP and amendments. Qualified SWPPP Practitioner (QSP) services will include conducting weekly SWPPP inspections, preparation of Rain Event Action Plans (REAPs), conducting qualifying rain event inspections, conducting water quality sampling, preparation of annual SWPPP reports and completing a Notice of Termination (NOT).

SCOPE OF WORK:

The scope of work for this project involves nine principal tasks as described below, with corresponding rates for these tasks contained in Attachment B.

Task 1. Prepare a Storm Water Pollution Prevention Plan. This task involves preparing a site specific SWPPP in compliance with CGP. SWPPP preparation will include conducting applicable research, review and calculations, and developing applicable appendices and attachments (e.g., phase specific sampling and monitoring plans, spill response plan, Best Management Practice [BMP] specifications, and Water Pollution Control Drawings [WPCDs]). The preparation of the SWPPP will address the site specific Risk Level assessment and develop a plan for inspection and compliance requirements.

For preparation of the SWPPP document, we have assumed that design plans (electronic), project description, and other pertinent information will be provided by the County. Contractor will complete the risk level evaluation to provide documentation of the risk level assessment. This work program will be directed by a Qualified SWPPP Developer (QSD) and will include submittal of an electronic copy of the SWPPP to the County. Contractor will prepare a construction site monitoring plan (CSMP) for the project that will include the visual monitoring requirements and schedule to conduct SWPPP inspections necessary to comply with the CGP.

Contractor has assumed that the project will be a Risk Level II, so Contractor will prepare a sampling and analysis plan (SAP) that will be included in the SWPPP. The SAP will describe the water quality sampling and analysis procedures and schedule for the project. This task assumes a detailed work plan and construction schedule including the Water Pollution Control Schedule (WPCS) will be provided to Contractor. The proposed sampling locations will either be identified on the WPCDs or, if unknown, will be described in the text. The SAP will address sampling for pH, turbidity, and non-visible pollutants.

Development of the SWPPP document and its components will be based on information provided by the County and will be intended to meet the 2009-0009-DWQ Construction General Permit guidelines. Contractor will not be responsible for inadequacies or inaccurate information provided by the County or other parties. The County will be responsible for SWPPP implementation.

Task 2. Weekly SWPPP Compliance Inspections. Contractor will conduct weekly inspections for the duration of the Jail Expansion construction project. Weekly inspections will be conducted within the specified work areas by a trained SWPPP inspector and will include onsite inspections of active and inactive construction areas. Inspections will also include evaluation of onsite vehicle and equipment maintenance and fueling areas. Contractor will provide and complete the inspection forms and note deficiencies with the Best Management Practices (BMPs) as prescribed by the SWPPP. Contractor will provide recommendations to the County's project manager/ superintendent if BMPs require repair or modification. The County will be responsible to implement all repairs or modifications to the BMPs to maintain compliance with the SWPPP. Contractor assumes the weekly inspections can be completed within two on-site hours from the time the Contractor's inspector arrives onsite. This work program will be directed by a QSP.

This task also includes general project management including consultation with the County. We anticipate ongoing regular communications regarding the adequacy of the implemented BMPs and recommendations for general SWPPP compliance measures and modification to the SWPPP, as necessary, to the County's project manager/ superintendent. Additionally, this task includes the general management of the contract and scheduling of field assignments.

Task 3. Preparation of Rain Event Action Plans. The project is assumed at a Risk Level II, therefore, Contractor will prepare one site specific Rain Event Action Plan (REAP) prior to each forecasted storm event with at least a 50% chance of precipitation within 48 hours of the forecasted storm event. REAPs will describe actions to be taken to prepare the site for the forecasted rain event. REAPs will describe BMP maintenance and repair activities and crew responsibilities. Contractor is not responsible for implementing the REAPs in the field. The REAPs will be prepared by a QSP.

Task 4. Qualifying Rain Event Inspections. Contractor will conduct rain event SWPPP inspections before, during, and after qualifying rain events (1/2 inch of rain or more) to monitor BMP compliance. Pre-storm inspections will be conducted for any forecasted storm event with at least a 50% chance of precipitation of 1/2 inch of rain or more. During extended qualifying rain events, Contractor will conduct rain event inspections at least once every 24 hours for the duration of the qualifying rain event. Post-storm inspections will be conducted within 48 hours after a qualifying rain event. These inspections are intended to identify and record BMPs that need maintenance to operate effectively, that have failed, or that could fail to operate as intended. Contractor will conduct visual inspections of active and inactive areas.

Task 5. Storm Water Sampling and Analysis. Contractor will collect storm water samples during qualifying rain events and analyze the storm water samples for pH and turbidity with field instruments. Storm water sampling will be conducted at locations listed in the SWPPP as discharge locations. The storm water sampling will be conducted in conjunction with the observations triggered by a qualifying rain event. We have assumed that up to three discharge locations will be required to be sampled. Contractor also assumes that sufficient access to the discharge locations will be available such that these tasks can be completed within three and a half on-site hours.

Task 6. Laboratory Analysis of Storm Water Samples. If non-visible pollutant sampling and analysis is required, Rincon will collect and analyze the samples on a time and materials basis. Constituents to be analyzed depend on the pollutant suspected as having been released.

Task 7. Storm Water Annual Reports. Contractor will prepare the Storm Water Annual Reports. The report will include SWPPP certifications, monitoring, and inspection forms for this project performed by Contractor for the monitoring period.

Task 8. Prepare Notice of Termination. Contractor will prepare the Notice of Termination for the project and upload the report to the Storm Water Multiple Application and Report Tracking System (SMARTS) database.

Task 9. Prepare SWPPP Amendments. Contractor will prepare amendments for the site specific SWPPP in accordance to the CGP requirements. A QSD will prepare and submit the necessary amendments to the County and upload the necessary documents to SMARTS. Amendments will be billed on a time and materials basis.

Project Assumptions:

- The project qualifies as a Risk Level II as specified in the 2009-0009-DWQ Construction General Permit.
- 18-month project duration, beginning Sept 2017.
- June to July annual monitoring cycle may require the completion of 2 annual reports.
- Task 4 Qualifying Rain Events (QRE) include inspections pre-, during-, and post-rain event.
- SWPPP amendments are not required.
- Sampling under Task 5 is not estimated for each event. Assuming that only ½ of the events will require run-off sampling.
- Assuming that all BMP inspection requests will be completed, thus eliminating items for Task 6.
- The County will be responsible for SWPPP implementation.
- The project work week will be Monday through Friday, excluding Federal holidays. If weekends are required, the additional work can be completed on an overtime and materials basis.
- Storm water samples will be collected from up to three discharge locations during qualifying rain events. It is assumed that sufficient access to the discharge locations will be available such that these tasks can be completed within three on-site hours.
- Field sampling and analysis is limited to pH and turbidity.
- If non-visible pollutant sampling and analysis is required, Contractor will collect and analyze the samples on a time and materials basis.
- Contractor assumes the County will conduct the daily visual inspections as required in the 2009-0009-DWQ Construction General Permit.
- Contractor assumes that the Legally Responsible Person will approve Contractor as an authorized data submitter in the SMARTS database.

Management and Qualifications. This project would be managed by Ed De La Llave, CPSWQ, QSD/P, QISP, ToR, Project Manager, and overseen by Wait Hamann, PG, CEG, CHG, QSD/P, Vice President.

Limitations, Assumptions, and User Reliance. Development or amendments of the SWPPP document and its components will be based on information provided by the County and will be intended to meet the 2009-0009-DWQ Construction General Permit guidelines. Contractor will not be responsible for inadequacies or inaccurate information provided by the County. Contractor will only be responsible for the work Contractor conducts. Contractor shall have no liability with regard to the County's decision to rely on internal staff or another third-party for compliance recommendations or the subsequent consequences of those recommendations for periods where a Contractor representative is not present to observe construction compliance.

Inspection or monitoring as used herein is defined as visual observation of construction and the equipment and material used, to allow Contractor's staff to render a professional opinion about the general contractor's work and its conformance with Contractor's recommendations contained in the SWPPP compliance inspection reports. Given the inherent limitations of such observations, Contractor's professional opinions shall not be relied upon by any party as acceptance of the work, nor shall Contractor's professional opinions relieve any party from fulfillment of its customary and contractual responsibilities and obligations.

**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 \$ 48,300.00

for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this attachment, Attachment B.

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

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

Task	Cost / Unit	Units	Cost
Task 1. SWPPP	\$3,500	1	\$3,500
Task 2. Weekly SWPPP Compliance Inspections	\$345 / Inspection	72	\$24,840
Task 3. Preparation of REAPs	\$290 / Report	8	\$2,320
Task 4. Qualifying Rain Event Inspections(QRE)	\$370 / Inspection	24	\$8,880
Task 5. Storm Water Sampling and Analysis	\$430 / Inspection	12	\$5,160
Task 6. Laboratory Analysis of SW Samples	T&M	0	0
Task 7. Prepare Annual Report	\$1,200 / Report	2	\$2,400
Task 8. Prepare NOT	\$1,200 / Report	1	\$1,200
Task 9. Prepare SWPPP Amendments	T&M	0	0
Estimated Total			\$48,300

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.