

coordinate its Design Documents with the information disclosed in said reports, studies, surveys, data and other documents.

## 2.15 ELECTRONIC PROGRAM MANAGEMENT

If County has established an electronic program management system for the furnishing, storage, exchange and transmission of electronic documentation and communications relating to the Project, then Architect shall, as part of its Basic Services comply with the requirements of such system, including, without limitation, the following: (1) using e-mail for communications, wherever possible; (2) using electronic versions of Design Documents for distribution for bidding or other purposes; (3) scanning of documents; and (4) cooperating in maintaining a common file and electronic archive. All costs of setting up the electronic program management system will be paid directly by County. Costs incurred by Architect to use the system (including, without limitation, the purchase of any software) shall be at Architect's Own Expense. County shall have the right, exercised in its sole and absolute discretion, to cease operation of the electronic program management system at any time upon written notice to Architect if County determines that continued operation is not in the best interests of the County.

## 2.16 TIME AND SCHEDULE

**2.16.1 Master Project Schedule.** Architect shall meet the requirements of the Master Project Schedule - Exhibit "D" attached hereto, including, without limitation, the dates set forth therein for completion of each Phase of Architect's Basic Services, subject to such extensions as are permitted by Paragraph 2.16.3, below.

**2.16.2 Architect's Project Schedule.** Architect shall, within ten (10) Days after execution of this Agreement by County and Architect, prepare and submit for County's approval an Architect's Project Schedule for the Project that: (1) conforms to and incorporates the deadlines and time periods applicable to each Phase as set forth in the Master Project Schedule; (2) coordinates and integrates the planning, programming, design and other activities of Project Team members in appropriate detail to County's satisfaction; (3) shows estimated commencement, duration, responsible parties and sequence for planning, programming and design; (4) shows the interdependencies of the planning and design activities; and (5) shows deadlines and estimates of time for review and receipt of all approvals, decisions and other information to be provided by County and Governmental Authorities, allowing a reasonable time for such review, approvals and decisions.

**2.16.3 Time Extensions.** Architect shall be entitled to an adjustment of the Master Project Schedule and Architect's Project Schedule for, and shall not be considered in default of this Agreement because of, unavoidable and unforeseeable Delays that are beyond Architect's and its Subconsultants' reasonable control and beyond Architect's responsibility under this Agreement (such as, but not limited to, strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any Governmental Authority to act in a reasonably timely manner, failure by County to timely provide information or approvals or Delays caused by the fault of the Contractor or Separate Contractors) for which Architect has given written notice to County of the circumstances of such Delay within three (3) Days after first learning of such circumstances. Failure to provide such written notice shall result in a waiver by Architect of any right to an adjustment to the Architect's Project Schedule on account of such circumstances. Without limitation to the foregoing, neither the bankruptcy, insolvency nor financial inability of Architect or any Subconsultant, nor any failure by a Subconsultant to perform any obligation imposed by contract or Applicable Laws, shall constitute a grounds for extension under the terms of this Paragraph 2.16.3.

**2.16.4 Schedule Updates.** Architect shall, no less frequently than monthly, update and expand the level of detail in the Architect's Project Schedule as the Project progresses, indicating current status of scheduled activities and projections of potential completion of major tasks. If significant variance from

planned activities occurs, Architect shall recommend recovery plans to County and, upon obtaining County's approval thereof, modify the Architect's Project Schedule to incorporate such recovery plans.

**2.16.5 County Approvals.** Failure by County, a County Consultant or any other Project Team member to provide an approval, decision or other information needed by Architect shall not constitute grounds for extension to the Architect's Project Schedule unless such approval, decision or other information is not provided, without reasonable justification, within seven (7) Days after written request therefor by Architect delivered to the Project Team member from whom such approval, decision or other information is required, with a copy to County, stating that failure to provide such approval, decision or other information within seven (7) Days may or will result in Architect seeking an extension of the Architect's Project Schedule on the grounds of Delay.

**2.16.6 County Review.** Architect is solely responsible, notwithstanding County's review or approval thereof, for the completeness, accuracy and suitability of the Architect's Project Schedule and all updates thereof.

**2.16.7 No Delay by Architect.** Architect shall not delay its interpretations, decisions, reviews or other functions pursuant to this Agreement or otherwise cause or contribute to a Delay to the progress of design or construction of the Project.

**2.16.8 Delay Costs.** Architect's sole and exclusive right and remedy for recovery or compensation for Losses related to Delay, of any kind, are: (1) its right to Additional Services to the extent permitted by Paragraph 3.2.6, below; and (2) its right to adjustment of the Hourly Rates, if any, provided for by this Agreement. All other rights and claims by the Architect, on its own behalf and on behalf of its Subconsultants, for Losses relating to Delay, from any cause whatsoever, are hereby waived.

## 2.17 SUSTAINABLE DESIGN REQUIREMENTS

**2.17.1 LEED Accreditation.** Architect and each of its Subconsultants in the fields of mechanical design, electrical design, and plumbing design each shall assign at least one (1) individual who has received an accreditation as a "LEED-Accredited Professional" by the U.S. Green Building Council ("USGBC") and demonstrated experience in designing projects to the standards of USGBC to participate in the preparation of the Construction Documents. Such individual shall be considered a Key Person under this Agreement.

**2.17.2 Approvals and Design Credits.** Architect shall include all of the necessary designs and specifications in its Construction Documents, and provide all of the other supporting documentation required by USGBC, to enable County to obtain all full approval and certification by the USGBC that the relevant portions of the Construction Documents meet the requirements of the LEED – NC Reference Guide (First Edition, 2005) and so that County can receive the USGBC "design credits" listed in LEED's Design Credits - Exhibit "Q", attached hereto. Submittals by Architect and Subconsultants for USGBC approval shall, as a part of Basic Services, be corrected or revised, as deemed necessary by the USGBC for issuance of such approvals and design credits. In the event that, due to an error or omission by Architect or a Subconsultant in the preparation of its submittal to USGBC, an appeal is necessary, Architect shall provide as part of Basic Services the services, including revisions to its submittals, that are necessary to the prosecution of the appeal to a final resolution.

ARTICLE 3  
ADDITIONAL SERVICES

**3.1 DEFINITION**

Additional Services are services, which if authorized by and performed in accordance with this Agreement, are paid for by County in the form of Additional Services Compensation. Additional Services consist solely and exclusively of those services listed in Section 3.2, below, and those other services marked by a "No" designation in the Description of Basic, Additional and Excluded Services - Exhibit "B" attached hereto. Additional Services, whether or not listed in this Article 3 or the Description of Basic, Additional and Excluded Services - Exhibit "B" attached hereto, do not include any service that arises, in whole or in part, from the breach of this Agreement by Architect, an act or omission of Architect or a Subconsultant constituting negligence (ordinary or professional), willful misconduct or violation of Applicable Laws or information contained in the Design Documents constituting errors, omissions, conflicts, ambiguities or violations of Applicable Laws.

**3.2 ENUMERATION OF ADDITIONAL SERVICES**

In addition to those services listed in the Description of Basic, Additional and Excluded Services - Exhibit "B" that are marked "No" (indicating that they are not part of Basic Services), the following services constitute Additional Services:

**3.2.1** preparing revisions to the Design Development Documents or Construction Documents that are: (1) required to implement changes, additions or deletions to the Final Program that are material in scope and are requested and approved by County in writing after County's approval of the completed Schematic Design Documents, or (2) the result of issuance by County of written directives or instructions that materially conflict with prior written directives or instructions by County; or (3) required by reasonably unforeseeable enactments or revisions of Applicable Laws enacted subsequent to the preparation of the portion of the Design Development Documents or Construction Documents affected thereby;

**3.2.2** providing services as necessary to correct Defective Work furnished by Contractor or a Separate Contractor;

**3.2.3** providing services in connection with a mediation, arbitration, or legal proceeding, except where a party to such proceeding has alleged in good faith the occurrence of any of the following: (1) breach of this Agreement by Architect; (2) an act or omission of Architect or a Subconsultant constituting negligence, willful misconduct, or violation of Applicable Laws; or (3) that the Design Documents prepared by Architect or a Subconsultant contain information constituting errors, omissions, conflicts, ambiguities, or violations of Applicable Laws;

**3.2.4** providing services made necessary by termination of the Contractor or a Separate Contractor, but only to the extent such services exceed the level of services that would have been provided in the absence of such termination;

**3.2.5** providing services to make revisions to the Design Development Documents or Construction Documents due to a substantial inaccuracy in any surveys, test data or other information provided by County pursuant to Section 4.2 of this Agreement under circumstances in which the inaccuracy was not known or reasonably discoverable by Architect or a Subconsultant at the time the portion of the Design Documents being revised was originally prepared by Architect or such Subconsultant;

**3.2.6** providing Basic Services for the Construction Phase of a Project that, solely due to



circumstances giving rise to a right of Architect to an extension of time under Paragraph 2.16.3, above, are required to be performed following the sixtieth (60th) Day after (1) the original date for Final Completion established by the Construction Contract at the time the Construction Contract is executed by County and Contractor; plus (2) the number of Days of any Periods of Inactivity under this Agreement; provided, however, that nothing herein shall be interpreted as entitling Architect to be paid duplicative compensation (both as Additional Services and Basic Services) for services covered under and compensated by its Basic Services Compensation; or

**3.2.7** subject to the provisions of Paragraph 2.13.6, above, if the scope of Basic Services set forth in Description of Basic, Additional and Excluded Services - Exhibit "B" attached hereto expressly limits Basic Services to a specific number of hours, instances or occasions, providing services that are requested by County that exceed the number of hours, instances or occasions that are agreed to be provided as part of Basic Services.

### **3.3 AUTHORIZATION BY COUNTY**

Additional Services shall be performed only if authorized and directed in writing by County in advance and in accordance with this Article 3.

### **3.4 NOTICE TO COUNTY**

Architect shall notify County in writing within five (5) Days after learning of any circumstance (including, without limitation, any direction or request by County or other Project Team member) that Architect believes may give rise to performance of Additional Services. Unless otherwise provided in Section 3.5, below, Architect waives the right to compensation for Additional Services performed without prior written approval by Assistant CEO/EDA expressly acknowledging that the service is an Additional Service.

### **3.5 DISPUTES**

If a good faith dispute arises as to whether a particular service performed or to be performed is a Basic Service or an Additional Service, Architect will, if requested to do so by County in writing, nevertheless promptly perform such service and pay any expenses associated with such performance, pending resolution of such dispute. Neither County's request, Architect's performance or County's acceptance of such performance nor County's payment therefor will constitute a waiver on the part of County or Architect of their respective rights or defenses with respect to the appropriate classification of such service or expense, which rights and defenses shall remain subject to determination in accordance with Article 11, below.

## **ARTICLE 4 COUNTY RESPONSIBILITIES**

### **4.1 ADMINISTRATION BY COUNTY**

**4.1.1 County Requirements.** County shall provide information regarding its objectives, schedule, constraints, criteria, space requirements and relationships, flexibility, expandability, special equipment and Site requirements.

**4.1.2 County Approvals.** County shall promptly respond to Architect's submittals and requests for decisions, approvals or information; provided, however, that no failure by County to respond shall entitle Architect to an adjustment of the Master Project Schedule or Architect's Project Schedule except as permitted by Section 2.16, above. County's review, approval or evaluation of Design Documents shall neither be interpreted as an assumption by County of any responsibility or liability for the technical

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accuracy or completeness of the Design Documents nor as relieving Architect of any liability or responsibility under this Agreement.

**4.1.3 Assistant CEO/EDA.** Subject in all cases to approval by the Board of Supervisors as required by Applicable Laws, the Assistant CEO/EDA is the sole representative of County with authority on behalf of County to: (1) approve or revise the Final Program or Fixed Limit; (2) approve of any extension to the Master Project Schedule or Architect's Project Schedule; (3) authorize the performance of Additional Services; or (4) authorize the incurring of Reimbursable Expense in amounts that exceed any applicable monetary limitations agreed to in writing between County and Architect.

**4.1.4 Board Approval.** Notwithstanding anything stated in this Agreement to the contrary, only the Board of Supervisors has authority on behalf of County to commit or bind County to an obligation to pay any sum of money or additional compensation that exceeds or is beyond the limits of the agreed Basic Services Compensation.

## 4.2 SURVEYS, SERVICES AND REPORTS

**4.2.1 Reference Documents.** County has provided or made available to Architect for its review the Reference Documents listed in the Reference Documents List - Exhibit "J" attached hereto. Execution of this Agreement shall be deemed acknowledgement by Architect that it has received and read the Reference Documents and in entering into this Agreement has taken into consideration the matters disclosed thereby. County makes no representation that the Reference Documents so listed constitute all of the documents in its custody that may be pertinent to the matters addressed in said Reference Documents or pertinent to Architect's preparation of its Design Documents for the Project.

**4.2.2 Testing and Inspection.** County shall directly contract for and pay the costs of such special testing and inspection that, based upon the recommendations of Architect pursuant to Section 2.11, above, are specified by Architect in the Final Construction Documents.

**4.2.3 Land Survey.** If requested by Architect and required for the performance of this Agreement by Architect, County shall furnish a land survey of the Site and the location on the Site of Existing Improvements, prepared by a licensed surveyor, including grades and lines of streets, alleys, pavements and adjoining property and locations, dimensions and elevations of trees and Existing Improvements above the surface of the ground.

**4.2.4 Geotechnical.** County shall, based upon the recommendations of Architect, furnish geotechnical data and reports, or employ County Consultants to provide such data or reports, when reasonably deemed necessary by Architect, including test logs, soil classifications, soil bearing values and other data and information reasonably appropriate to identifying and evaluating subsoil conditions at the Site.

**4.2.5 County's Expense.** The services, information, surveys and reports to be furnished by County as required under this Section 4.2 shall, except as otherwise provided in this Agreement, be furnished at County's expense.

**4.2.6 No Warranty by County.** In performing its obligations under this Agreement, Architect shall be entitled to rely upon the accuracy and sufficiency of surveys, data, reports or other information furnished by County pursuant to this Article 4 (including, without limitation, the Reference Documents and any drawings, design or technical specifications furnished by County as referenced in Paragraph 4.2.8, below); however, County does not impliedly or expressly warrant the accuracy or suitability thereof and County shall have no liability to Architect (other than as permitted by Article 3, above, for authorized Additional Services Compensation) in the event that such surveys, data, reports or other information are

found to be inaccurate, incomplete or insufficient.

**4.2.7 Notice of Defects.** County and Architect shall each provide prompt written notice to the other party if either becomes aware of any defect or deficiency in the Design Documents.

**4.2.8 County-Furnished Designs.** Drawings, designs or technical specifications provided by the County to the Architect for the Architect's use in connection with its performance under this Agreement (including, without limitation, drawings, designs or technical specifications prepared by Architect for other projects previously designed by Architect for County or prepared by other architects, engineers or design professionals, and that County directs be replicated, in whole or in part, by Architect in its Design Documents) are provided for the convenience of the Architect with the understanding that Architect will, based upon a careful and thorough review of them, make any changes or revisions that Architect deems appropriate or necessary before using or incorporating any portion thereof into the Design Documents for the Project. Any portion thereof that is used or incorporated by Architect or any Subconsultant in the Design Documents shall be the sole risk of Architect who shall be solely responsible for the accuracy, completeness and sufficiency thereof to the same extent as if such incorporated drawings, designs or technical specifications were originally prepared by Architect solely for use on the Project.

#### 4.3 ACCESS TO SITE

Architect shall at all times during performance of this Agreement have access to the Site and to the Work, at whatever stage the Work is in its preparation or progress, to facilitate Architect's performance of its obligations under this Agreement. Architect is responsible to see to it that employees of Architect and its Subconsultants, at all times while present on the Site of the Project, comply with the safety requirements applicable to the Site, including, but not limited to the requirements of the safety programs of Contractor and Separate Contractors performing Work on the Site.

#### 4.4 APPROVALS

Approvals by or on behalf of County of Design Documents prepared by Architect, or of any design or engineering services performed under this Agreement, shall not, under any circumstances, be interpreted as relieving Architect from its sole responsibility to produce and prepare such documents and perform such services in a manner that strictly complies with this Agreement, Applicable Laws and the standards of performance applicable to Architect's performance under this Agreement.

### ARTICLE 5 ARCHITECT'S COMPENSATION

#### 5.1 BASIC SERVICES COMPENSATION

**5.1.1 Total Compensation.** Architect shall be paid a total Basic Services Compensation for performance of Basic Services (including, without limitation, Basic Services performed by Subconsultants) comprised exclusively of (1) Basic Services Fees plus (2) authorized Reimbursable Expenses. Basic Services Compensation constitutes the Architect's sole, exclusive and complete compensation for performance of Basic Services, including, without limitation, all costs and expenses, of any kind, incurred by Architect or its Subconsultants in performance of Basic Services.

**5.1.2 Basic Services Fees.** Subject to the provisions of Paragraph 5.1.4, below, Architect's Basic Services Fees for performance of Basic Services shall be as follows: **[Check appropriate box(es)]**:

.1  a **Fixed Fee** for all Basic Services of \$219,268;

.2  the product of (1) the actual hours expended by Architect's and its Subconsultants' professional personnel in performance of Basic Services multiplied by (2) the applicable Hourly Rates for such personnel, the total of which shall not exceed a **Maximum Hourly Fee** of \$ \_\_\_\_\_; or,

.3  a **Basic Services Fee** based on a combination of compensation comprised of both **Fixed Fees** and **Maximum Hourly Fees** for each of the following categories of Basic Services:

**Basic Services Description:**

**Basic Services Fees: [Check appropriate box]**

(1) Schematics, Design

Development and CD's:

**Fixed Fee:** \$ \_\_\_\_\_;

**Maximum Hourly Fee:** \$ \_\_\_\_\_;

(2) Bidding and Construction

Administration:

**Fixed Fee:** \$ \_\_\_\_\_;

**Maximum Hourly Fee:** \$ \_\_\_\_\_;

(3) Reimbursables:

**Fixed Fee:** \$ \_\_\_\_\_;

**Maximum Hourly Fee:** \$ \_\_\_\_\_.

**5.1.3 Guaranteed Amounts.** An amount agreed to by County and Architect pursuant to Paragraph 5.1.2, above, as a Fixed Fee or Maximum Hourly Fee represents the County's maximum liability to Architect for the complete performance by Architect and its Subconsultants of the Basic Services or portion of Basic Services covered by such Basic Services Fees. Subject only to Architect's rights under Section 5.2 below, any fees, costs or expenses, of any kind, incurred by Architect or a Subconsultant, for performance of Basic Services or a portion of Basic Services for which a Fixed Fee or Maximum Hourly Fee has been agreed to in Paragraph 5.1.2, above, that if charged to County would exceed the amount of such Fixed Fee or Maximum Hourly Fee shall be deemed incurred at Architect's Own Expense.

**5.1.4 Basic Services Allowances.** Basic Services Allowances represent estimated Basic Services Fees for a category of Basic Services for which the County and Architect have not agreed upon a Fixed Fee or Maximum Hourly Fee. Architect does not represent, agree or guarantee that the Basic Services Fees that may be required to be paid by County for complete performance of Basic Services that are within the scope of the description of a Basic Services Allowance will not exceed the agreed amount assigned to such Basic Services Allowance. Notwithstanding the foregoing, Basic Services Fees payable by County for Basic Services that are covered by a Basic Services Allowance shall not exceed the amount of the Basic Services Allowance set forth below without the prior written approval of County and absent such approval are deemed performed at Architect's Own Expense. In the event Basic Services Fees for Basic Services that are covered by a Basic Services Allowance are less than the amount of the Basic Services Allowance, set forth below, County shall only pay and be liable for the actual amount of such Basic Services Fees earned by Architect.

**Basic Services Allowance:**

**Amount:**

(1) Electrical Recordings and HVAC Survey:

\$11,000





|                        |          |
|------------------------|----------|
| (2) LEED:              | \$10,000 |
| (3) Scope Adjustments: | \$7,200  |

**5.2 REIMBURSABLE EXPENSES**

**5.2.1 Exclusive List.** Reimbursable Expenses include, and are limited to, the a reasonable amount for the following costs and expenses if and to the extent they are incurred and paid by Architect in the performance of Basic Services or Additional Services and not as a result of the negligence, willful misconduct or violation of an Applicable Law by Architect or its Subconsultants or the failure by Architect to comply with the requirements of this Agreement:

.1 if approved in advance by County, mileage for vehicle travel (at the rates set forth in the Reimbursable Expenses Schedule - Exhibit "G" attached hereto), air travel (coach fare only) and related subsistence (meals and lodging at standard business accommodation rates) for travel from Architect's or a Subconsultant's place of business (whether located within or outside the County of Riverside) to a point of destination outside the County or Riverside, but excluding the following: (1) travel and related subsistence to or from the County's offices or the Site for purposes of conducting inspections, observations or attending meetings that are part of Basic Services; (2) travel to and from residences to the Architect's or a Subconsultant's place of business; and (3) travel to or from Architect's or a Subconsultant's place of business located outside the County of Riverside to a location within the County of Riverside.

.2 printing and reproduction (paper and electronic) of Design Documents, at the agreed rates set forth in the Reimbursable Expenses Schedule - Exhibit "G" attached hereto, that under the terms of this Agreement are required to be delivered to County or that County requests or approves be provided to another member of the Project Team (by way of example, without limitation, costs of printing or reproduction for internal uses by, or for copies transmitted between or among, Architect and/or its Subconsultants are not reimbursable);

.3 fees for permits or approvals of Governmental Authorities paid for by Architect on behalf of County as requested by County;

.4 costs of renderings or mockups requested by County that are in addition to those required as part of Basic Services; and

.5 costs listed in Subparagraphs 5.2.1.1 through 5.2.1.4, above, incurred and paid by Subconsultants in the performance of Basic Services or Additional Services; provided that (1) such costs are due and payable by Architect pursuant to terms of a contract approved by County pursuant to Section 1.6, above; (2) such costs are not included in or covered by any fixed fee agreed to by the Subconsultant under the terms of the Subconsultant's contract; and (3) such costs are not in excess of any not-to-exceed amount applicable thereto under the terms of the Subconsultant's contract.

**5.2.2 Approval Limitations.** Reimbursable Expenses shall not exceed, either individually or in the aggregate, the limits set forth in the Reimbursable Expenses Schedule - Exhibit " G " attached hereto without the prior written approval of County. Reimbursable Expenses incurred without such approval shall be deemed incurred at Architect's Own Expense.

**5.2.3 Mark Ups.** Neither the Architect nor any Subconsultant shall include or charge any markup or multiplier upon any Reimbursable Expense, save and except for such markups or multipliers

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as may be permitted, if at all, by the terms of the Reimbursable Expenses Schedule - Exhibit "G" attached hereto.

**5.2.4 Expense Records.** In addition to Architect's obligations under Section 6.3, below, accurate and detailed records of Reimbursable Expenses shall be maintained in an orderly manner on the basis of generally accepted accounting practices and shall be available at Architect's office (or at County's request, shall be brought by Architect to County's offices) for inspection, auditing and/or copying by County and its representatives pursuant to Article 7, below.

**5.3 ADDITIONAL SERVICES COMPENSATION**

**5.3.1 Additional Services Compensation.** Architect shall be paid a total Additional Services Compensation for performance of Additional Services comprised exclusively of Additional Services Fees plus authorized Reimbursable Expenses. Additional Services Compensation constitutes the Architect's sole, exclusive and complete compensation for Additional Services, including, without limitation, all costs and expenses, of any kind, incurred in connection with Architect's and its Subconsultants' performance of Additional Services.

**5.3.2 Additional Services Fees.** Prior to performance of an Additional Service, Architect and County shall attempt in good faith to negotiate terms for Additional Services Fees on the basis of either: (1) a lump sum price; or (2) actual hours expended multiplied times the Hourly Rates for the personnel involved in providing such Additional Service as set forth in the Hourly Rates Schedule - Exhibit "H" attached hereto, not-to-exceed an agreed maximum amount. In addition to County's rights under Section 5.6, below, if the parties are unable to agree, then the County shall have the right, without limitation, to direct in writing that Architect perform the Additional Services based on actual hours expended at the agreed Hourly Rates, without a not-to-exceed amount, plus reimbursement of authorized Reimbursable Expenses. Additional Services performed without prior written authorization pursuant to this Paragraph 5.3.2 or written direction pursuant to Section 5.6, below, shall be deemed performed at Architect's Own Expense.

**5.3.3 Direct Engagement.** County reserves the right, without thereby being considered in breach of this Agreement, to contract for the performance of Additional Services by others.

**5.4 HOURLY RATES**

Hourly Rates for Basic Services and Additional Services performed on an hourly basis are set forth in the Hourly Rates Schedule - Exhibit "H" attached hereto. Hourly Rates shall remain fixed for the duration of Architect's performance of this Agreement.

**5.5 RELEASE FOR PRIOR SERVICES**

Architect waives and releases County from any obligation or liability for payment of money or compensation for services, of any kind, performed and for costs or expenses, of any kind, incurred, prior to execution of this Agreement by Architect.

**5.6 DISPUTES**

If a good faith dispute arises as to whether a service is Basic Services or Additional Services or whether an expense is reimbursable as a Reimbursable Expense, Architect will nevertheless promptly perform such service and pay such expense, if requested to do so by County in writing, pending resolution of such

dispute. Neither County's request, Architect's performance nor County's payment therefor or thereof will constitute a waiver on the part of County or Architect of their respective rights or defenses with respect to the appropriate classification of such service or expense, which rights and defenses shall remain subject to determination in accordance with Article 11, below.

#### 5.7 NO WAIVER OR RELEASE OF RIGHTS

Neither authorization nor payment by County of any amount for Basic Services, Additional Services or Reimbursable Expenses shall be interpreted as a waiver, release or settlement of any rights or claims that County may have: (1) for Losses resulting from the fault, negligence or willful misconduct of the Architect or its Subconsultants or the breach by Architect of an obligation under this Agreement; or (2) to recoup and recover from Architect amounts paid by County that were not in fact due and owing to Architect under the terms of this Agreement at the time they were paid.

### ARTICLE 6 PAYMENTS TO ARCHITECT

#### 6.1 INVOICES FOR PAYMENT

**6.1.1 Invoice Submission.** On the 1<sup>st</sup> day of each month, Architect shall submit to County an accurate and complete Invoice for Payment, using the Invoice for Payment Form - Exhibit "N" attached hereto, signed by Architect and requesting payment for the preceding thirty (30) Day period as follows:

**.1 Basic Services Fees.** Amounts included in an Invoice for payment for Basic Services Fees shall be computed in accordance with the following provisions, as applicable:

**(1) Fixed and Maximum Fees.** Amounts included by Architect in its Invoices for Payments for Basic Services Fees on account of Basic Services or any portion of Basic Services for which a Fixed Fee or a Maximum Hourly Fee has been agreed to in Section 5.1, above, shall not exceed a pro rated portion of the agreed Basic Services Fees based on the product of (1) the percentage of completion of such Basic Services that has been actually achieved by Architect, multiplied times (2) the agreed Fixed Fee or Maximum Hourly Fee applicable to such Basic Services; and provided further, that where such Basic Services or portion of Basic Services are to be performed in Phases, such pro rated portion shall be proportionate to and shall not exceed for any Phase of such Basic Services or portion of Basic Services, the percentage of such Basic Services Fees that is assigned to such Phase in the Payment Schedule - Exhibit "I" attached hereto.

**(2) Basic Services Allowances.** Amounts included by Architect in its Invoices for Payments for Basic Services Fee on account of Basic Services covered by a Basic Services Allowance shall not, prior to the time that the Basic Services Fees incurred equal the Basic Services Allowance amount, exceed a pro rated portion of the agreed Basic Services Allowance amount based on the product of (1) County's Good Faith Determination of the percentage of completion of such Basic Services Allowance that has been actually achieved by Architect, multiplied times (2) the agreed Basic Services Allowance amount. If and when the Basic Services Fees incurred for Basic Services covered by a Basic Services Allowance equal the Basic Services Allowance amount, the Architect shall, if County has previously approved in writing of further Basic Services Fees being incurred in excess of the amount of the Basic Services Allowance, thereafter include in its Invoices for Payment the actual amount of such Basic Services Fees incurred up to, but not exceeding, any additional maximum amount authorized by County as part of such approval.

**.2 Additional Services Fees.** Architect's Invoice for Payment shall include amounts for Additional Services Fees earned for the proper performance of Additional Services



authorized pursuant to Article 3, above. Each item of Additional Services shall be separately itemized, in accordance with the following methods of calculation, as applicable:

(1) **Lump Sum:** If the agreed Additional Services Fees are based on a lump sum price, by taking the County's Good Faith Determination of the percentage of the Additional Services properly completed and multiplying that percentage times the agreed lump sum price for such Additional Services and subtracting therefrom payments previously made on account thereof.

(2) **Hourly/Not-to-Exceed:** If the Additional Services Fees are based on an hourly compensation, by taking the number of hours of Additional Services performed during the thirty (30) Day period covered by the Invoice for Payment and multiplying those hours times the applicable Hourly Rates for such personnel; provided, however, that if the parties have agreed to a not-to-exceed amount for such Additional Services Fees, then under no circumstances shall the total of the amounts paid and payable by County for such Additional Services Fees at any time exceed a pro rata share of the agreed not-to-exceed amount for such Additional Services based on County's Good Faith Determination of the percentage of such Additional Services properly completed in accordance with this Agreement multiplied times the agreed not-to-exceed amount.

.3 **Reimbursable Expenses.** Architect's Invoice for Payment shall include amounts for authorized Reimbursable Expenses incurred and paid by Architect during the thirty (30) Day period covered by the Invoice for Payment that have not been previously reimbursed by County. Reimbursable Expenses associated with Basic Services and Additional Services shall be separately itemized. Reimbursable Expenses for Additional Services shall be further separately itemized to correspond to the Additional Service for which they were incurred and paid.

## 6.2 PAYMENT SCHEDULE FOR BASIC SERVICES

The County's obligation for payment of Basic Services Fees for any Phase of Basic Services shall under no circumstances exceed a pro rata share of either the lump sum amount or Maximum Hourly Fee (as applicable pursuant to Section 5.1, above) that County is obligated to pay for Basic Services Fees. Such pro rated share shall be calculated based on the percentages assigned to each Phase of Basic Services in the Payment Schedule - Exhibit "I" attached hereto. In cases where only a portion of a Phase is completed, the amount payable shall not exceed County's Good Faith Determination of the percentage of Basic Services completed within that Phase expressed as a separate percentage of the percentage of overall Basic Services allocated in the Payment Schedule to that Phase.

## 6.3 ACCOMPANYING DOCUMENTATION

Each Invoice for Payment shall be accompanied by the following:

6.3.1 in the case of Basic Services and Additional Services performed and compensated on an hourly basis, detailed time summaries for Basic Services and Additional Services performed during the period of time covered by the Invoice for Payment that are broken down by time keeper, task and time expended (block billings are not permitted) and copies of all time sheets prepared by any time keeper who performed any part of the Basic Services and Additional Services which are the subject of the Invoice for Payment and which reflect or record such Basic Services and Additional Services;

6.3.2 copies each of the invoices, receipts and other documentation verifying the amounts of Reimbursable Expenses for which reimbursement is sought in the Invoice for Payment, along with a tally of all Reimbursable Expenses requested in the Invoice for Payment the sum of which totals the total amount of Reimbursable Expenses for which reimbursement is sought by Architect in the Invoice for Payment;

**6.3.3** conditional waivers and releases of stop payment notice rights executed by Architect and its Subconsultants, of every Tier, using the Release Forms - Exhibit "M" attached hereto, conditionally releasing to the fullest extent allowable by Applicable Laws all stop payment notice rights for all services performed and costs incurred during the period of time covered by the then-current Invoice for Payment;

**6.3.4** unconditional waivers and releases of stop payment notice and bond rights executed by Architect and its Subconsultants, of every Tier, using the Release Forms - Exhibit "M" attached hereto unconditionally releasing to the fullest extent allowable by Applicable Laws all stop payment notice and bond rights for all services performed and costs incurred during the period of time covered by the Invoice for Payment immediately preceding the current, pending Invoice for Payment; and

**6.3.5** such other documentation substantiating Architect's or its Subconsultants' charges or time as may be reasonably requested by County.

#### **6.4 REVIEW AND PAYMENT**

**6.4.1 Review by County.** County shall, within fourteen (14) Days after receipt of an Invoice for Payment prepared and submitted in accordance with this Agreement, notify Architect if the Invoice for Payment is approved or rejected, in whole or in part, along with an explanation of the reason(s) for any disapproval.

**6.4.2 Payment by County.** Payment of undisputed amounts included in an Invoice for Payment prepared and submitted in accordance with this Agreement shall be made by County monthly within thirty (30) Days after receipt by County of the Invoice for Payment requesting payment that is prepared and submitted in accordance with this Agreement.

#### **6.5 PAYMENT DISPUTES**

Without limitation to County's rights under Section 6.6, below, in the event there is a good faith dispute over a request for payment included in an Invoice for Payment, County shall have the right to either: (1) make all or part of such disputed payment to Architect without prejudice to County's right to contest the amount so paid; or (2) withhold only the amount of such payment as to which County makes a Good Faith Determination that there is a dispute and provide to Architect written notice of the reason(s) for such withholding. County and Architect shall use their good faith efforts to attempt to resolve their dispute as quickly as practicable under the circumstances. Architect shall not be entitled to terminate this Agreement or suspend performance of its services hereunder on account of such nonpayment provided that County makes payment of all undisputed sums. If County withholds payment under Clause (2) of this Section 6.5 and if it is determined subsequently that County's withholding was wrongful, County shall pay such amount to Architect plus any penalties that may be due pursuant to California Civil Code Section 3320; no additional amounts shall be payable to Architect for interest on such unpaid amounts. If County chooses to proceed under Clause (1) of this Section 6.5 and it is subsequently determined that County overpaid Architect, Architect shall refund to County the amount of such payment plus accrued interest computed at the Interest Rate from the date of such overpayment until refunded.

#### **6.6 WITHHOLDING BY COUNTY**

Without limitation to County's rights under California Civil Code Section 3320, County shall have the right, after written notice to Architect, to withhold from payment to Architect 150% of the amount of any Loss resulting from, or threatened as a result of, the negligence of Architect or a Subconsultant or a failure by Architect to perform an obligation under this Agreement. Such withholding shall not constitute a final determination or waiver of any rights or liabilities of County or Architect with respect to responsibility for

such Loss, which rights and liabilities shall remain subject to determination in accordance with Article 11 of this Agreement.

#### 6.7 LIENS, STOP PAYMENT NOTICES, CLAIMS

Except as otherwise provided herein, Architect shall not permit to be created or to remain undischarged any lien, encumbrance, stop payment notice, claim or charge (collectively, "lien") which arises out of, or relates to, the provision by Architect or its Subconsultants of any services or things under this Agreement upon the property of County, the construction fund of County, or the income from any such property or construction fund, or any part thereof, or suffer any other matter or thing whereby the estate, rights and interest of County in the Project property or construction fund, or any part thereof, might be impaired. If any such lien is filed, then within thirty (30) Days after notice of filing thereof Architect shall cause the same to be fully discharged of record, released and removed by any lawful means available, such as, but not limited to, payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Architect shall fail to cause such lien to be so discharged within the period aforesaid, then, in addition to any other right or remedy, County may, but shall not be obligated to, discharge the lien by any means, including, but not limited to, withholding amounts pursuant to Section 6.6, above, paying the amounts claimed to be due (including, without limitation, interest and attorney's fees claimed due), bonding or any other means that County determines, in its sole and absolute discretion, appropriate. Any Loss incurred by County as a result of Architect's failure to comply with its obligations under this Section 6.7 shall be paid by Architect to County on demand. Architect shall be excused from its obligations under this Section 6.7 with respect to, but only to the extent of, amounts included in a lien that are unpaid to the claimant upon the lien as the direct result of County's breach of its payment obligations to Architect under this Agreement.

### ARTICLE 7 ACCOUNTING, RECORDS AND AUDIT

#### 7.1 FINANCIAL MANAGEMENT

Architect shall set up and exercise accounting and control systems for the proper financial management of its performance under this Agreement that are satisfactory to County, comply with the prevailing custom and practice for similar projects and afford County the ability to verify all charges and duplicate all calculations made by the Architect and Subconsultants.

#### 7.2 RECORD KEEPING

**7.2.1 Books and Records.** Architect shall keep full and detailed books and records concerning the Project, including, without limitation, all documents (including, all hard copies and computer readable data, if it exists) that comprise or relate or refer to any of the following: (1) agreements, contracts, proposals, commitments, invoices, billings, statements, receipts, checks, certificates, releases, waivers, plans, specifications, notes, schedules, reports, studies, test data, approvals, permits, applications, diaries, logs, photographs, videos, shop drawings, samples, product data, job reports, change orders, field orders, directives, orders, bulletins, transmittals, requests for information, addenda, receipts, vouchers, correspondence, memoranda, messages, minutes, accounting records, job files, settlement agreements, and general ledgers; (2) any charge, cost or expense for which Architect seeks reimbursement or payment by County as part of any Invoice for Payment, Claim or other demand; and (3) any other documents that County, in its reasonable judgment, deems relevant to the Project.

**7.2.2 Maintenance and Retention.** Architect shall at all times maintain such books and records in an organized and systematic form that allows for reasonably easy access and review and shall retain and preserve such books and records for a period of ten (10) years after the later of either final



payment to Architect under this Agreement or Final Completion of the Project, or for such longer period as may be required by Applicable Laws.

### 7.3 INSPECTION, PRODUCTION AND AUDITING

Architect shall allow County and the auditor for the State of California (and their respective authorized representatives, auditors, and attorneys), not later than the third business day after written notice to Architect, full access at Architect's offices nearest to the Project to inspect, audit and copy any or all of Architect's books and records as described in Section 7.2, above. Architect shall, at Architect's Own Expense, furnish facilities and staff assistance for, and cooperate fully with, such inspection or audit. Audits by the County and the auditor for the State of California may be conducted jointly or separately. Upon request, Architect shall provide reproducible copies of such books and records for reproduction by or on behalf of the person conducting the audit. Except as otherwise provided in Section 7.4, below, such reproduction shall be at the expense of the entity conducting the audit. The audit rights provided for under this Section 7.3 may be exercised at any time, and as often, before or after Final Completion, as County or the auditor for the State of California deems, in its sole and absolute discretion, necessary.

### 7.4 NONCOMPLIANCE BY ARCHITECT

**7.4.1 Cost of Audit.** If an inspection or audit pursuant to Section 7.3, above, discloses that any amount (other than amounts permitted under the terms of this Agreement to be charged by Architect as lump or fixed fee charges) cannot be verified due to a failure by Architect or any Subconsultant to comply with this Article 7, has been improperly, inaccurately or excessively charged to County by Architect or any Subconsultant or has been overpaid by County, and if the total of such amounts for any calendar year audited is five percent (5%) or more of the total amount (exclusive of amounts permitted under the terms of this Agreement to be charged by Architect as lump or fixed fee charges) invoiced to County during such year, then Architect shall pay, at Architect's Own Expense, 100% of the actual cost to County and/or the State of California of such inspection or audit and any resulting report. If such inspection, audit or report is by County using in-house staff, then such actual cost to County shall be computed on the basis of two (2) times the direct payroll of the staff completing such inspection, audit or report.

**7.4.2 County Remedies.** Without limitation to any of County's rights or remedies for recovery or withholding of any amounts from Architect as may be permitted by Applicable Laws or elsewhere in this Section 7.4 or this Agreement, if an inspection or audit pursuant to Section 7.3, above, discloses that an amount has been overpaid by County, then County shall have the right to withhold such amount from any payments due to Architect or if no payments are due Architect shall immediately reimburse such amount to County. Amounts overpaid by County shall earn interest at the Interest Rate from the date of overpayment until the date reimbursed by Architect to County.

**7.4.3 Withholding.** In addition, and without limitation upon any of the other provisions for withholding of payment that are set forth in this Section 7.4 or elsewhere in this Agreement, County shall have the right to withhold from any payment to Architect an additional sum of up to ten percent (10%) of any amount claimed due by Architect until (other than amounts permitted to be charged by Architect as lump or fixed fee charges) has fully complied with any outstanding and unsatisfied request for performance by Architect of any obligation under this Article 7. Upon Architect's full compliance, such sum withheld under this Paragraph 7.4.3 shall be released to Architect.

**7.4.4 Legal Proceedings.** Architect's compliance with the requirements of this Article 7 shall be a condition precedent to maintenance by Architect of any legal action or arbitration against County relating to Architect's or County's performance under or related to this Agreement.

## 7.5 SUBCONSULTANTS

Architect shall ensure that the provisions of this Article 7 are included in all contracts entered into by Subconsultants, of every Tier, who perform services for the Project; provided, however, that Architect shall have the right to limit the scope of a Architect's obligation to allow for inspection or audit of books and records concerning actual costs of performance to costs that are related to: (1) costs of Subconsultant's administering its performance under its contract with Architect for the Project; (2) services that are performed on an hourly or cost reimbursement basis; (2) Additional Services; (3) cost or expenses that are payable on a reimbursement basis; and (4) Claims.

## ARTICLE 8 DEFAULT, TERMINATION AND SUSPENSION

### 8.1 TERMINATION BY COUNTY FOR CAUSE

**8.1.1 Default by Architect.** Architect shall cure any default in performance of its obligations under this Agreement within two (2) Days after receipt of written notice from County; provided, however, that if the breach cannot reasonably be cured within such time, then Architect will commence to cure the breach within two (2) Days and will diligently and continuously prosecute such cure to completion within a reasonable time, which shall in no event be later than ten (10) Days after receipt of such written notice. Nothing herein shall be interpreted as obligating County to give an opportunity to cure in the case of an emergency or if the default is of the type that County determines, in good faith, cannot be cured, or cannot be fully cured, within the time periods set forth in this Section 8.1.

**8.1.2 Remedies Upon Default.** In the event of any default by Architect, including, without limitation, a default that Architect fails to cure within the time periods set forth in Paragraph 8.1.1, above, then County may by written notice to Architect, effective upon Architect's receipt of such notice or upon such later date as may be set forth in such notice, pursue any remedies available under Applicable Laws, including, without limitation, the following:

**.1 Take-Over.** County may, without terminating this Agreement, terminate or discontinue the Architect's performance and delete, take over or arrange for performance by others of some or all of the Basic Services and Additional Services, reserving to itself all rights to recover all Losses, including, without limitation, any Losses related thereto.

**.2 Termination.** County may terminate this Agreement upon written notice, reserving to itself all rights to recover all Losses, including, without limitation, all Losses related thereto.

**8.1.3 Rights Cumulative.** All of County's rights and remedies under this Agreement are cumulative and shall be in addition to those rights and remedies available under Applicable Laws. No termination or other action taken by County after exercise of its rights under this Article 8 shall prejudice any other rights or remedies of County provided by Applicable Laws or by this Agreement.

**8.1.4 Disability, Insolvency.** In addition to the other rights granted to County under this Agreement or Applicable Laws, County shall have the right to terminate this Agreement for default by giving seven (7) days written notice to Architect, if: (1) Architect is an individual and should die or be adjudged incompetent; (2) Architect attempts to assign this Agreement; (3) a petition of bankruptcy is filed by Architect or Architect is adjudicated or admitted to be a bankrupt in connection with an involuntary petition of bankruptcy filed against Architect; (4) Architect should make a general assignment for the benefit of creditors; or (5) a receiver should be appointed on account of Architect's insolvency.

**8.1.5 Architect Obligations.** Upon Architect's receipt from County of notice of County's

exercise of any of its rights under Paragraph 8.1.2, above, Architect shall, unless the notice directs otherwise, do the following:

.1 immediately discontinue the performance of Basic Services and Additional Services to the extent specified in the notice;

.2 provide to County a description, in writing, no later than seven (7) Days after receipt of the notice of termination, of all contracts with Subconsultants that are outstanding, including, without limitation, with respect to each such contract separately, the terms of the original price, payments made to date, the balance owing, the status of the services performed and any outstanding withholding of funds or default, and a copy of the contract and any written changes, amendments or modifications thereto, together with such other information as County may determine necessary in order to decide whether it is in County's best interests to accept assignment of, or request Architect to terminate, the contract; and

.3 thereafter only perform such Basic Services and Additional Services as may be necessary to complete the portion of the Basic Services and Additional Services not terminated, taken over or discontinued.

**8.1.6 Completion by County.** In the event County exercises its rights under Paragraph 8.1.2, above, County shall have the further right, without releasing Architect from liability for failure to fulfill this Agreement, to proceed to complete the Basic Services and Additional Services by any means that County determines is expedient and withhold all or a portion of the monies, if any, owing to Architect until County has completed such Basic Services and Additional Services.

**8.1.7 Payment to Architect.**

.1 **Terminated Services.** With respect to any or all Basic Services and Additional Services that are terminated, discontinued or taken over by County pursuant to an exercise by County of its rights under Paragraph 8.1.2, above, and without limitation to County's other rights under this Agreement or Applicable Laws: (1) if the Losses to County, whether incurred or threatened, arising out of any default by Architect (whether or not such default was the subject of the County's notice of default) or County's exercise of its remedies for default by Architect, exceed the amount of Basic Services Compensation and Additional Services Compensation calculated pursuant to Sections 6.1 and 6.2, above, that was earned by Architect for such Basic Services and Additional Services performed up to, and not beyond, the effective date of such termination, discontinuance or take over by County, then Architect shall be liable to County for the difference and shall promptly remit same to County; or (2) if the sum of such Losses is less than the amount of such Basic Services Compensation and Additional Services Compensation, then County shall pay the difference to Architect within forty-five (45) Days after receipt by County of an Invoice for Payment prepared in accordance with this Section 8.1 and Sections 6.1 through 6.3, above, requesting payment of such Basic Services Compensation and Additional Services Compensation.

.2 **Continuing Services.** In the event of a partial termination, discontinuance or take over by County pursuant to an exercise by County of its rights under Paragraph 8.1.2, above, and without limitation to County's other rights under this Agreement or Applicable Laws: (1) with respect to that portion of Basic Services or Additional Services that is not terminated, discontinued or taken over by County, County shall make a Good Faith Determination of an adjustment in the Basic Services Compensation and Additional Services Compensation under this Agreement to reflect the reduction in the scope of Basic Services and Additional Services remaining to be performed by Architect; and (2) Architect shall continue performance of such Basic Services and Additional Services and shall be paid by County therefor in accordance with the terms of this Agreement.

INITIALS 



**.3 Conversion.** In the event a termination, discontinuance or take over by County for cause pursuant to this Section 8.1 is determined to be wrongful, Architect's right to payment or recovery shall be governed by the provisions of Subparagraphs 8.2.2.1 through 8.2.2.3, below, in lieu of any other rights, remedies or recovery provided for by Applicable Laws.

## 8.2 TERMINATION WITHOUT CAUSE

**8.2.1 Termination for Convenience.** Upon at least three (3) Days' written notice to Architect prior to the effective date of an exercise of a right under this Section 8.2, County shall have the right, in its sole and absolute discretion and without cause and for its convenience, to terminate, discontinue or take over all or any portion of this Agreement or Architect's performance under this Agreement. Upon receiving such notice, Architect shall, unless the notice directs otherwise, take the actions required by Paragraph 8.1.5, above.

### 8.2.2 Payment to Architect.

**.1 Terminated Services.** With respect to any or all Basic Services and Additional Services that are terminated, discontinued or taken over by County pursuant to Paragraph 8.2.1, above, Architect shall, within seven (7) Days after exercise by County of a right to terminate, discontinue or take over pursuant to Paragraph 8.2.1, above, submit to County an Invoice for Payment prepared in accordance with Sections 6.1 through 6.3, above, for the amount of Basic Services Compensation and Additional Services Compensation that was earned by Architect for such Basic Services and Additional Services performed up to, and not beyond, the effective date of such termination, discontinuance or take over by County. Without limitation to County's rights under Sections 6.5 and 6.6, above, within forty-five (45) Days after receipt by County of an Invoice for Payment prepared in accordance with this Section 8.2, County shall pay to Architect the amount, if any, owing to Architect under this Paragraph 8.2.2.

**.2 Continuing Services.** In the event of a partial termination, discontinuance or take over by County pursuant to an exercise by County of its rights under Paragraph 8.2.1, above, and without limitation to County's other rights under this Agreement or Applicable Laws: (1) with respect to that portion of Basic Services or Additional Services that is not terminated, discontinued or taken over by County, County shall make a Good Faith Determination of an adjustment in the Basic Services Compensation and Additional Services Compensation under this Agreement to reflect the reduction in the scope of Basic Services and Additional Services remaining to be performed by Architect; and (2) Architect shall continue performance of such Basic Services and Additional Services and shall be paid by County therefor in accordance with the terms of this Agreement.

**.3 Exclusive Remedy.** Architect agrees to accept the payments provided for under this Paragraph 8.2.2 as its sole and exclusive right and remedy in lieu of all other rights and claims that Architect may have under this Agreement or Applicable Laws for recovery of Losses caused or claimed to be caused by County's termination, discontinuance or take over of this Agreement, including, without limitation, Losses associated with lost profits, lost opportunity, and other consequential damages.

## 8.3 SUSPENSION BY COUNTY

County shall have the right to order, in writing, a suspension of performance of all services by Architect without cause and for County's convenience. If services are entirely suspended by written order of County for a continuous period of more than sixty (60) consecutive Days, and such suspension is not due to a breach of this Agreement by Architect or the negligence, willful misconduct or violation of an Applicable Law by Architect or a Subconsultant, and if County thereafter requests in writing that Architect resume performance following such suspension, then Architect shall be entitled to payment as additional compensation of any unavoidable direct, out-of-pocket costs payable by Architect or Subconsultants to

third-party vendors of supplies as a result of such suspension. No other adjustment to Architect's compensation and no other recovery by Architect or any Subconsultant of Losses associated with such suspension shall be permitted.

#### 8.4 TERMINATION BY ARCHITECT

**8.4.1 Architect's Remedies.** If County fails within the applicable time period for payment provided for in Article 6, above, to make payment of sums that are not in good faith disputed by County and fails to cure such failure within thirty (30) Days after receipt of written notice of nonpayment from Architect, then, upon an additional ten (10) Days' written notice to County of intent to terminate, Architect may terminate this Agreement. The foregoing constitutes the Architect's sole and exclusive right to terminate this Agreement for any reason, including, but not limited to, any breach by County.

**8.4.2 Payment to Architect.** In the event of a termination by Architect pursuant to this Section 8.4, Architect's right to further payment or recovery shall be governed by the provisions of Subparagraphs 8.2.2.1 through 8.2.2.3, above, in lieu of any other rights, remedies or recovery provided for by Applicable Laws.

### ARTICLE 9 INDEMNIFICATION

#### 9.1 INDEMNIFICATION BY ARCHITECT

**9.1.1 Basic Indemnity.** To the fullest extent permitted by Applicable Laws, Architect agrees to defend (through legal counsel reasonably acceptable to County), indemnify, and hold harmless County, Board of Supervisors, and each of their respective members, officers, employees, agents, and volunteers ("Indemnitee(s)"), and each of them, from any and all Losses that arise out of or relate to any act or omission constituting ordinary and not professional negligence (including, without limitation, negligent breach of contract), recklessness, or willful misconduct on the part of Architect or its Subconsultants, or their respective employees, agents, representatives, or independent contractors. The Indemnitees shall be entitled to the defense and indemnification provided for hereunder regardless of whether the Loss is in part caused or contributed to by the acts or omissions of an Indemnitee or any other person or entity; provided, however, that nothing contained herein shall be construed as obligating Architect to indemnify and hold harmless any Indemnitee to the extent not required under the provisions of Paragraph 9.1.3, below.

**9.1.2 Indemnity for Professional Negligence.** To the fullest extent permitted by Applicable Law, Architect agrees to defend through legal counsel reasonably acceptable to County, indemnify and hold harmless the Indemnitees, and each of them, against any and all Losses that arise out of, or relate to, any act or omission constituting professional negligence on the part of Architect or its Subconsultants, or their respective employees, agents, representatives, or independent contractors. The Indemnitees shall be entitled to the defense, and indemnification provided for hereunder regardless of whether the Loss is, in part, caused or contributed to by the acts or omissions of an Indemnitee or any other person or entity; provided, however, that nothing contained herein shall be construed as obligating Architect to indemnify and hold harmless any Indemnitee to the extent not required under the provisions of Paragraph 9.1.3, below.

**9.1.3 Limitations on Indemnity Obligation.** Without affecting the rights of County under any other provision of this Agreement, Architect shall not be required to indemnify or hold harmless an Indemnitee for a Loss due to that Indemnitee's negligence, recklessness or willful misconduct; provided, however, that such negligence, recklessness or willful misconduct has been determined by agreement of Architect and Indemnitee or has been adjudged by the findings of a court of competent jurisdiction.

**9.1.4 Subconsultant Indemnity Agreements.** Architect agrees to obtain or cause to be obtained executed defense and indemnity agreements with provisions identical to those set forth in this Section 9.1 from each and every Subconsultant, of every Tier.

**9.1.5 No Limitation by Insurance.** Architect's indemnification obligations under this Agreement shall not be limited by the amount or type of damages, compensation or benefits payable under any policy of insurance, workers' compensation acts, disability benefit acts or other employee benefit acts.

**9.1.6 Enforcement.** The Indemnitees shall be entitled to recover their attorneys' fees, costs and expert and consultant costs in pursuing or enforcing their right to defense and/or indemnification under this Agreement.

**ARTICLE 10  
INSURANCE**

**10.1 ARCHITECT'S INSURANCE**

**10.1.1 Required Coverages.** Prior to the commencement of any services, Architect shall, at its own expense, purchase from, and maintain with, a company or companies lawfully authorized and approved by Governmental Authorities to do business in the jurisdiction in which the Project is located and having an A.M. Best Company rating of no less than A-8, the insurance coverages set forth in this Section 10.1, which coverages shall remain in force throughout Architect's performance of this Agreement and for such longer periods as may be required by this Agreement, unless such requirements are waived, in writing, by the County's Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer, such waiver is only valid for that specific insurer and only for one policy term after which full compliance with this Section 10.1 shall be required. Except as otherwise expressly provided in this Section 10.1, such policies and coverages shall, without limitation, protect Architect from claims which may arise out of, or result from, the Architect's performance of this Agreement, whether such performance be by itself or by any Subconsultant, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and shall comply with the following requirements:

**.1 Commercial General Liability** insurance on a form at least as broad as Insurance Services Office ("ISO") Commercial General Liability Coverage "occurrence" form CG20101185 (Form B) or ISO Comprehensive General Liability "occurrence" form acceptable to the County with the Broad Form Comprehensive General Liability Endorsement GLO404 (with no Property Damage Liability exclusions pertaining to loss by explosion, collapse or underground damage), including, without limitation, coverage for bodily injury, sickness, disease, or death of any person, injury to, or destruction of tangible property, including loss of use resulting therefrom, blanket contractual liability coverage (including, without limitation, coverage for the Architect's indemnification obligations set forth in Article 9, above), and including an endorsement amending the aggregate limits to apply on a per location or per project basis, with limits of liability coverages of no less than the following amounts:

|             |   |
|-------------|---|
| \$2,000,000 | General Aggregate (Other Than Products-Completed Operations)  |
| \$2,000,000 | Products-Completed Operations Aggregate Limit for a period of five (5) years following Final Completion and Acceptance of the Project |
| \$2,000,000 | Personal and Advertising Injury Limit   |
| \$2,000,000 | Per Occurrence Limit  |

**.2 Professional Liability** insurance, issued on a "claims made" basis, with limits of liability coverage in the amounts of no less than the following: (1) if the Fixed Limit is \$5 million or less: \$1,000,000 per claim and \$1,000,000 in the annual aggregate; (2) if the Fixed Limit is over \$5 million and

\$10 million or less: \$2,000,000 per claim and \$2,000,000 in the annual aggregate; and (3) if the Fixed Limit is over \$10 million: \$5,000,000 per claim and \$5,000,000 in the annual aggregate. Such policy shall provide coverage (including, without limitation, all costs and expenses resulting from the investigation and defense of any claim) for damages from claims for bodily injury or property damage to County or to any third party (including, without limitation, loss of use of damaged and non-damaged property) due to any breach of duty in the performance of professional services. Professional liability coverage shall have an inception date or a retroactive date coinciding with, or prior to, the date of execution of this Agreement or the date of first performance of any services under this Agreement, whichever date is earlier, and coverage shall continue uninterrupted until five (5) years after Final Completion and Acceptance of the entire Project. Coverage for such post-completion period may be provided by renewal or replacement of the policy for each of five (5) years or by a five-year extended reporting period endorsement that reinstates the aggregate limit for the extended reporting period. Renewal or replacement policies shall not allow for any advancement of the retroactive date. Any deductible or self-insured retention under the foregoing professional liability policy shall not, except with the approval of County granted or withheld in the County's sole and absolute discretion, exceed \$500,000.

**.3 Motor Vehicle Liability** insurance issued on an ISO Business Auto Coverage form, including Symbol 1, acceptable to the County with limits of liability coverage of not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage for all owned, hired, and non-owned vehicles.

**.4 Workers' Compensation** insurance (Coverage A) as prescribed by the laws of the State of California. The Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits of not less than \$1,000,000 per person per accident and shall provide a Borrowed Servant/Alternate Employer Endorsement.

**10.1.2 Notice of Cancellation.** Each policy of insurance shall: (1) be in a form, and with insurers, satisfactory to County; (2) incorporate such endorsements as County may reasonably request; and (3) provide for thirty (30) Days' advance notice to County of non-renewal, material change, cancellation, or potential exhaustion of aggregate limits.

**10.1.3 Additional Insureds.** Architect shall have the following named as Additional Insureds by means of endorsement to its General Liability, Excess (or Umbrella) Liability, and Motor Vehicle Liability policies: (1) the Indemnitees; (2) the persons or entities listed in the Additional Insureds List - Exhibit "L" attached hereto; and (3) all subsidiary companies, corporations, entities, joint ventures, LLC's, or partnerships that are owned, managed or controlled by the entities listed in Clauses (1) or (2) of this Paragraph 10.1.3. Such coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds. The "Insured" clause covering Additional Insureds shall: (a) be no more restrictive than the coverage afforded by ISO 2010 11/85 edition; (b) state that the coverage provided to the Additional Insureds is primary and non-contributing with any other insurance available to the Additional Insureds; and (c) require a waiver of subrogation in favor of all Additional Insureds.

**10.1.4 Self Insured Retentions.** Policies of insurance for the coverages described in Paragraph 10.1.1, above, with the sole exception of professional liability insurance, shall not have self insured retentions which exceed \$500,000 per occurrence. All deductibles and self insured retentions on insurance required to be obtained by Architect under this Agreement shall be borne by Architect at its sole expense and without reimbursement by County.

**10.1.5 Certificates of Insurance.** Prior to the commencement of any services under this Agreement, and at any time thereafter upon County's request during the term of this Agreement, Architect shall provide County with written evidence of the required coverages in the form of certificates of insurance with the applicable endorsements (including, without limitation, an endorsement confirming



coverage for the Additional Insureds) attached or copies of the policies. County reserves the right to require complete, certified copies of all required insurance policies at any time, including endorsements providing the coverages required by this Agreement.

**10.1.6 Waiver of Subrogation.** For Commercial General Liability and Workers' Compensation insurance, the insurer shall agree to waive all rights of subrogation against the Additional Insureds for Losses arising from activities and operations of an insured in the performance of services under this Agreement.

**10.1.7 Lapse in Coverage.** If Architect or any Subconsultant, for any reason, fails to maintain any insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of this Agreement. County, at its sole option, may thereupon terminate this Agreement and obtain damages from Architect resulting from said breach. Alternatively, County may purchase such coverage (but has no obligation to do so) and, without further notice to Architect, may deduct from sums due to Architect any premium costs advanced by County for such insurance.

**10.1.8 Subconsultants.** Except as otherwise stated in Subconsultant Insurance Requirements - Exhibit "P" attached hereto, Subconsultants shall be required to maintain insurance on the same terms and with the same coverages as required of Architect under this Agreement.

## ARTICLE 11 DISPUTE RESOLUTION

### 11.1 RESOLUTION OF DISPUTES

Disputes between County and Architect shall be resolved by way of an action filed in the Superior Court of the State of California, in and for the County of Riverside.

### 11.2 GOOD FAITH DETERMINATIONS

Wherever in this Agreement it is provided that the County may or shall make a determination or decision in the exercise of good faith (including, without limitation, provisions in this Agreement calling for a Good Faith Determination), any such determination or decision that the person exercising such right on behalf of County believes in good faith to be a proper exercise of County's rights and to have a reasonable basis in fact, whether or not such determination is in fact proper, reasonable or correct or adjudged to be so, shall be complied with by Architect without Delay to Architect's performance under this Agreement. However, unless this Agreement expressly provides otherwise, neither such good faith determination or decision nor Architect's compliance therewith shall be interpreted as precluding the Architect from exercising its rights to seek adjudication of its rights in the manner permitted by this Agreement or Applicable Laws.

### 11.3 ATTORNEY'S FEES

If any legal action, arbitration, or other legal proceeding is brought in connection with, or related to, the interpretation, performance, or enforcement of this Agreement, including, but not limited to, an action to rescind this Agreement, the prevailing party therein shall be entitled to recover from the other party the prevailing party's actual costs, expenses, and attorneys' fees at arbitration, mediation, trial, and on appeal, including, without limitation, a sum for time expended by in-house attorneys and paralegals. The determination of the "prevailing party" shall be based upon the party who prevails upon the matters actually litigated or arbitrated and shall not be determined solely based on which party receives a net monetary recovery.

ARTICLE 12  
**ROYALTIES, PATENTS, COPYRIGHTS  
AND TRADE SECRETS**

**12.1 ROYALTIES**

Architect shall pay all royalties and license fees in connection with its performance of this Agreement. Compensation for such royalties and fees is included in Architect's Basic Services Compensation and shall not be separately reimbursed.

**12.2 INFRINGEMENT**

Architect shall not infringe any United States patent, copyright, trade secret, or other proprietary right for or in any work of authorship, material, product, or any other form of intellectual property, or any part thereof (including, without limitation, software, hardware, service, design or equipment), used or furnished in connection with this Agreement.

**12.3 NOTICE BY ARCHITECT**

In those instances where Architect has reason to believe that a particular design, process, or product of one or more manufacturers that Architect is directed to use by County would infringe upon any of the rights listed in Section 12.2, above, Architect shall immediately notify County of its belief and the reasons therefor in writing.

ARTICLE 13  
**MISCELLANEOUS**

**13.1 GOVERNING LAW AND VENUE**

This Agreement shall, without regard to the law of conflicts of laws that may otherwise call for application of the laws of a different jurisdiction, be governed by the laws of the State of California. The Superior Court for the County of Riverside shall have exclusive jurisdiction over any litigation arising out of or relating to this Agreement.

**13.2 HAZARDOUS SUBSTANCES**

**13.2.1 Introduction by Architect.** Architect and its Subconsultants shall not cause or knowingly permit, or include in its Design Documents any provision allowing for, any Hazardous Substances to be deposited, stored, disposed, placed, generated, manufactured, buried, refined, transported, treated, discharged, handled, or located on the Site or in Existing Improvements, except as may be specifically authorized in writing by County; provided, however, that Hazardous Substances may be specified for temporary use or storage where reasonably required for, and in quantities appropriate to, the performance of the Work and where the use and storage of such Hazardous Substances is permitted by, and specified to be performed in conformity with, Applicable Laws. Should Architect or a Subconsultant violate the foregoing obligation, Architect shall at its own expense and without limitation to County's other rights or remedies for default immediately: (1) inform County in writing of such event; (2) advise County with respect to any release reporting or notification requirement that may apply as a result of such event; (3) assist County in complying with any such reporting or notification requirement as determined by County; and (4) perform any investigation, remediation, removal, or other response that is necessary or desirable in order to abate or clean up the condition resulting from such event, to the full satisfaction of County and any applicable Governmental Authority. Such Hazardous Substances shall be removed and properly disposed of as soon as they can be accepted at an appropriate disposal facility,

and in no event later than sixty (60) Days after such waste is generated, unless a longer time is approved by County.

**13.2.2 Existing Hazardous Substances.** Architect recognizes that Hazardous Substances may exist at or beneath the ground at the Site and that certain waste materials, such as, but not limited to, drill cuttings and drilling fluids, must be handled as if contaminated until a determination as to whether they are Hazardous Substances is made. If the Architect's Basic Services do not include the investigation or assessment of environmental conditions or Hazardous Substances, then in the event Architect or its Subconsultants encounter materials existing or otherwise present at the Site that are reasonably believed to be Hazardous Substances that have not been rendered harmless, Architect and/or Subconsultant shall report the condition to County in writing and County shall be solely responsible for arranging for and paying the costs lawfully to transport, store, treat, recycle, dispose of, or otherwise handle the Hazardous Substances present at the Site. If the Architect's Basic Services include the investigation or assessment of environmental conditions or Hazardous Substances, then Architect shall: (1) promptly make a determination whether the materials encountered are Hazardous Substances; (2) promptly advise County of the options and costs for handling, storing and disposing of such materials (whether they are Hazardous Substances or not); (3) appropriately handle, contain and label such materials as are Hazardous Substances in accordance with Applicable Laws; (4) promptly inform County that such handling, containerization and labeling have been performed; and (5) leave the containers on Site in an appropriate designated location for lawful storage and disposal by County. County shall be solely responsible for arranging for and paying the costs to lawfully transport, store, treat, recycle, dispose of or otherwise handle Hazardous Substances generated by Architect's proper performance of its professional services. Should the proper and lawful transportation and disposal of any such materials be required, Architect's responsibilities shall be limited to preparing manifests or related documents for execution by County. In this regard, County shall sign all manifests and bills of lading, and approve similar documents, including subcontracts for disposal activities, that identify County as the generator/owner of any hazardous or contaminated material that is removed from the Site. County shall be solely responsible for notifying all appropriate federal, state, local or other governmental agencies of the existence of any Hazardous Substances on or about the Site or discovered during performance of this Agreement; no such notice shall be given by Architect without prior discussion and approval by County.

### 13.3 NO WAIVER

A waiver, by either party to this Agreement, of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character. County's approval, acceptance or use of, or payment for, all or any part of Architect's services shall not in any way alter Architect's obligations, or waive any of County's rights, under this Agreement.

### 13.4 NO THIRD-PARTY RIGHTS

Nothing contained in this Agreement is intended to make any person or entity who is not a signatory to this Agreement a third-party beneficiary of any right or obligation created by this Agreement or by operation of Applicable Laws.

### 13.5 EXTENT OF AGREEMENT

This Agreement represents the entire Agreement between County and Architect for the furnishing of services to the Project, and supersedes all prior negotiations, representations or agreements, either written or oral, and may be amended only by written instrument signed by both County and Architect.



### 13.6 SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon County and Architect and their respective successors and assigns. Neither the performance of this Agreement nor any part thereof, nor any monies due or to become due hereunder, nor any claim hereunder, may be assigned by Architect without the prior written consent and approval of County, which may be granted or withheld in County's sole and absolute discretion. This Agreement and all of County's rights in and to the Design Documents may be assigned by County upon written notice to Architect. County shall have no liability or responsibility to Architect for payment for any services performed or cost incurred after the date of such assignment and notice thereof by County to Architect.

### 13.7 CONFIDENTIALITY

The Architect acknowledges that, in the course of the Architect's employment and performance under this Agreement, the County may make available to the Architect, and the Architect may utilize and may participate in the creation of, proprietary and confidential information, including, without limitation, plans, specifications, projected and actual budgets, construction and development schedules, operating procedures, pricing data, transaction terms, Site-related information, studies (including survey, soil, environmental, structural, topographic and seismic) and other Project information (hereinafter collectively, "Proprietary Information"). The Architect agrees on behalf of itself and its employees, officers, board members and Subconsultants that all Proprietary Information shall be kept strictly confidential. Such confidentiality obligation includes, without limitation, the following covenants by Architect: (1) the Proprietary Information shall not be disclosed, either verbally or in writing, to a person or entity that is not related to the Project; (2) the Proprietary Information shall not be disclosed to any person or entity related to the Project other than County unless such disclosure is essential to the Architect's performance of this Agreement or to the performance by a Project-related person or entity of its Project-related work, services or obligations; (3) Architect shall not publicly reveal any Proprietary Information unless such disclosure is essential to the Architect's performance of this Agreement or to the performance by a Project-related person or entity of its Project-related work, services or obligations; (4) subject to the provisions of Paragraph 1.7.7, above, Architect shall return all Proprietary Information (including all copies made thereof) to County upon request and in any event within sixty (60) Days after termination or full performance of this Agreement; (5) Architect shall not be deemed the author of any of the Proprietary Information and retains no Intellectual Property Rights in the Proprietary Information; (6) to the extent the Architect provides any Proprietary Information to a Subconsultant, the Architect shall be responsible for obtaining and enforcing a written agreement from each such Subconsultant pursuant to which such Subconsultant agrees to be bound by the terms of this Section 13.7; and (7) in the event that the Architect or any Subconsultant is required, or becomes legally compelled, to disclose any of the Proprietary Information or take any other action prohibited hereby, the Architect will provide County with prompt written notice so that the County may seek a protective order or other appropriate remedy and/or waive in writing compliance with the provisions of this Section 13.7. County shall have full recourse under Applicable Laws in enforcing this Section 13.7, including without limitation the right to seek specific performance and injunctive relief and to recover all damages resulting from a violation hereof. Architect shall instruct all of its employees working on the Project of the foregoing confidentiality obligation.

### 13.8 INDEPENDENT CONTRACTOR

Architect is and shall at all times remain, as to County, a wholly independent contractor, both in respect to its design and construction administration obligations, as well as all other acts or omissions that occur in connection with its performance of this Agreement. Neither County nor any of its agents shall have control over the conduct of Architect or any of Architect's officers, agents or employees, except as otherwise herein set forth. Architect shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of County.

INITIALS 



### 13.9 ARCHITECT'S REPRESENTATIONS

Without limitation to any other covenants, agreements, or representations contained in this Agreement, Architect warrants and represents that: (1) it is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the services and perform the obligations required by this Agreement; (2) it is authorized to do business in the State of California; (3) it is duly licensed in accordance with Applicable Laws to enter into this Agreement for performance of the services to be provided by this Agreement; and (4) all services required to be performed by this Agreement or performed under this Agreement shall be performed by persons duly licensed in accordance with Applicable Laws to perform such services. Architect shall require that the foregoing warranties be provided, in writing, by each of its Subconsultants as part of its contracts with its Subconsultant.

### 13.10 SURVIVAL

The provisions of this Agreement which by their nature survive, or involve a right that is to be or may be exercised by or afforded to a party, or an act or obligation that is to be assumed or performed by a party, after the point in time that full performance or termination of this Agreement has occurred, including, without limitation, all obligations of indemnification, insurance, audit, dispute resolution, confidentiality, ownership of documents and records retention, shall remain in full force and effect after full performance or termination of this Agreement.

### 13.11 SEVERABILITY

In the event a provision of this Agreement, or portion thereof, is held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions or portions shall not be affected, and such remaining provisions or portions shall be enforceable to the fullest extent allowable by Applicable Laws in order to give maximum legal force and effect to those provisions or portions that are not invalid, illegal or unenforceable.

### 13.12 INTERPRETATION

Architect and County acknowledge that the terms of this Agreement have been mutually negotiated and, accordingly, shall not be interpreted against either County or Architect on the basis that either party was solely responsible for or in control of the drafting of this Agreement.

### 13.13 ADVERTISING

Architect may not use County's name or refer to County or the Project, directly or indirectly, in any promotional materials, advertisement, news release or release to any professional or trade publication without County's prior written approval, which may be granted or withheld in its sole and absolute discretion.

### 13.14 ELECTRONIC DOCUMENTS

In the event of any conflict between a document contained in an electronic file and the hard copy of such document maintained in the files of County or Architect, the hard copy shall control.

### 13.15 EXECUTION

Execution by means of signature of a party hereto on a facsimile copy or electronically transmitted copy shall be binding to the same extent as execution of an original.

**13.16 COUNTERPARTS**

This Agreement may be executed in separate counterparts, any one of which need not contain signatures of more than one party, but all of which taken together shall constitute the same agreement.

**13.17 TITLES FOR CONVENIENCE**

The table of contents and the headings of articles and paragraphs are for convenience only and shall not modify rights and obligations created by this Agreement.

**13.18 NONDISCRIMINATION**

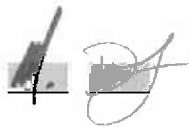
Architect shall comply, and cause its Subconsultants, of every Tier, to comply, with all requirements of Applicable Laws pertaining to equal opportunity employment and nondiscrimination, including, without limitation, those requirements prohibiting discrimination against or segregation of any person or group of persons on account of age, ancestry or national origin, color, creed, disability, gender, marital status, race, religion or sexual orientation, nor shall Architect permit any such practice prohibited by such requirements to take place in connection with the selection, location or number of consultants or vendors employed. Architect shall include the provisions of this Section 13.18 in all contracts entered into with Subconsultants for performance of services provided for under this Agreement.

**13.19 SERVICES PERFORMED BY ARCHITECT OR AFFILIATES**

The Architect shall not enter into any subcontract, contract, agreement, purchase order, or other arrangement ("Arrangement") for the furnishing of any portion of the services provided for in this Agreement with any party or entity if such party or entity is an Affiliated Entity (as defined below), unless such Arrangement has been approved in writing by the County after full disclosure in writing by the Architect to the County of such affiliation or relationship and all details relating to the proposed Arrangement. The term "Affiliated Entity" as used in this Section 13.19 means any entity related to or affiliated with the Architect or with respect to which the Architect has direct or indirect ownership or control, including, without limitation: (1) any entity owned in whole or part by the Architect; (2) if the Architect is a corporation, any holder of more than 10% of the issued and outstanding shares of the Architect; (3) if Architect is not a corporation, any holder of an ownership interest in Architect; or (4) any entity in which any officer, director, employee, partner, or shareholder (or member of the family of any of the foregoing persons) of the Architect, or any entity owned by the Architect, has a direct or indirect interest which interest includes, but is not limited to, that of a partner, employee, agent, or shareholder.

**13.20 REBATES, KICKBACKS**

Architect represents and warrants that it has neither paid or agreed to pay, nor will it pay, any sums or any other consideration to any member of the Board of Supervisors or any other director, officer, employee, agent or other representative of County in connection with this Agreement or any services hereunder, nor has any such payment or agreement for payment been requested or solicited by any such member, director, officer, employee, agent or representative. Architect hereby acknowledges that it understands that this representation and warrant constitute a material inducement upon which County is relying in entering into and performing this Agreement.

INITIALS 

**ARTICLE 14  
NOTICES**

**14.1 DELIVERY AND ADDRESSES**

**14.1.1 Delivery.** Any notice that is required by this Agreement shall be given as provided hereinbelow. Electronic (i.e., e-mail) notice shall not be sufficient. All notices, demands, or requests to be given under this Agreement shall be given in writing and shall be conclusively deemed received as follows:

- (1) on the date delivered if delivered personally;
- (2) on the third (3<sup>rd</sup>) business day after the deposit thereof in the United States mail, postage prepaid, and addressed as hereinafter provided;
- (3) on the date received if sent by facsimile transmission or overnight mail (such as, but not limited to, UPS, Fed Ex, or other similarly reputable private or public express carriers); and
- (4) on the date it is accepted or rejected if sent by certified mail.

**14.1.2 Addresses.** All notices, demands or requests required by this Agreement shall be addressed to the parties as follows:

To County at:

Economic Development Agency  
Riverside Centre  
3403 Tenth Street, 4th Floor  
Riverside, CA 92501  
Attention: Dominick Lombardi

To Architect at:

GKK Works  
2355 Main Street, Suite 220  
Irvine, CA 92614  
Attention: Matthew Greiner



**14.2 CHANGE OF ADDRESS**

In event of any change of address, the moving party is obligated to notify the other party of the change of address in writing. Each party may amend, supplement and update the notice list to add, delete or replace any listed individuals by notice to the other party in writing.

**ARTICLE 15  
EXHIBITS**

The following exhibits are attached hereto and incorporated in this Agreement by this reference as part of the terms of this Agreement:

- Exhibit "A" - Property Description
- Exhibit "B" - Description of Basic, Additional and Excluded Services
- Exhibit "C" - Initial Program
- Exhibit "D" - Master Project Schedule
- Exhibit "E" - Key Personnel List
- Exhibit "F" - Subconsultants and County Consultants List
- Exhibit "G" - Reimbursable Expenses Schedule
- Exhibit "H" - Hourly Rates Schedule
- Exhibit "I" - Payment Schedule
- Exhibit "J" - Reference Documents List
- Exhibit "K" - General Conditions of the Standard Form Construction Contract Between County and Contractor
- Exhibit "L" - Additional Insureds List
- Exhibit "M" - Release Forms
- Exhibit "N" - Invoice for Payment Form
- Exhibit "O" - Construction Document Deliverables
- Exhibit "P" - Subconsultant Insurance Requirements
- Exhibit "Q" - LEED's Design Credits



In the event of a conflict between the provisions of any of the above-listed exhibits and the terms and conditions of the Agreement, the latter shall control.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ [to be filled in by Clerk of the Board].

**"COUNTY"**

COUNTY OF RIVERSIDE

By: \_\_\_\_\_  
JOHN J. BENOIT, Chairman  
Board of Supervisors

**"ARCHITECT"**

GKK WORKS

\_\_\_\_\_  
(sign on line above) *M. Greiner*

By: Matthew Greiner  
(type name)

Title: Principal, Regional Manager

**The following information must be provided concerning the Architect:**

State whether Architect is corporation, individual, partnership, joint venture or other:

\_\_\_\_\_  
*CORPORATION*

If "other", enter legal form of business:

\_\_\_\_\_

**ATTEST:**

KECIA HARPER-IHEM  
Clerk of the Board

By: \_\_\_\_\_  
Deputy

(SEAL)

Enter address: 2355 MAIN STREET  
SUITE 230  
RIVERSIDE, CA 92514

Telephone: (949) 250-1500

Facsimile: ( )

E-mail: m.greiner@gkkworks.com

Employer State  
Tax ID #: 20-3030954

License #: C-27137

If Architect is not an individual or corporation, list names 4 representatives who have authority to bind Architect:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPROVED AS TO FORM:**

GREGORY P. PRIAMOS  
County Counsel

By: *Marsha L. Victor* 8/10/16  
Marsha L. Victor  
Principal Deputy County Counsel

INITIALS *M. Greiner*

If Architect is a corporation, state:

Name of President: RAFUL KULKARNI

Name of Secretary: DAVID HUNT

State of Incorporation: CALIFORNIA

## EXHIBIT "A "

### PROPERTY DESCRIPTION

Property Address: 403 E. 4<sup>th</sup> Street, Perris, CA 92570

Project Number: FM08270007365

Property Description: Latitude 33° 46' 55.1712" N; Longitude 117° 13' 16.6764"W

Elevation: 1,436 ft.





**EXHIBIT "B"**

**DESCRIPTION OF BASIC SERVICES, ADDITIONAL SERVICES  
AND EXCLUDED SERVICES**

**2.1.1 PROFESSIONAL SERVICES**

**.1 Excluded Services.** The following constitute Excluded Services: See GKK Works proposal dated August 8, 2016

**.2 Basic Services, Additional Services.** Those of the following professional services, which are marked "Yes," shall be provided by Architect as part of Basic Services. Those of the following professional services, which are marked "No" shall be deemed to be Additional Services.

| <u>Yes</u>                          | <u>No</u>                           |   |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Architectural<br>_____<br>_____   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Civil<br>_____<br>_____   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Structural<br>_____<br>_____  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Mechanical<br>_____<br>_____  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Plumbing<br>_____<br>_____  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Electrical<br>_____<br>_____  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Energy calculations<br>_____<br>_____   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | California Environmental Quality Act (CEQA) compliance<br>_____<br>_____              |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | National Environmental Policy Act (NEPA) compliance (of applicable)<br>_____<br>_____ |

**EXHIBIT "B"**

**DESCRIPTION OF BASIC SERVICES, ADDITIONAL SERVICES  
AND EXCLUDED SERVICES**

- National Pollution Discharge Elimination System compliance (NPDES) - SWPPP  
\_\_\_\_\_  
\_\_\_\_\_
- National Pollution Discharge Elimination System compliance (NPDES) - WQMP  
\_\_\_\_\_  
\_\_\_\_\_
- National Pollution Discharge Elimination System compliance (NPDES) - FPPP  
\_\_\_\_\_  
\_\_\_\_\_
- Landscape (on-Site plantings)  
\_\_\_\_\_  
\_\_\_\_\_
- Landscape (off-Site plantings)  
\_\_\_\_\_  
\_\_\_\_\_
- Utility coordination  
\_\_\_\_\_  
\_\_\_\_\_
- Fire/life safety  
\_\_\_\_\_  
\_\_\_\_\_
- Acoustic  
\_\_\_\_\_  
\_\_\_\_\_
- Elevator, Escalator  
\_\_\_\_\_  
\_\_\_\_\_
- Parking, Striping  
\_\_\_\_\_  
\_\_\_\_\_
- Security  
\_\_\_\_\_  
\_\_\_\_\_
- Communications  
\_\_\_\_\_  
\_\_\_\_\_
- Signage/graphics  
\_\_\_\_\_  
\_\_\_\_\_



**EXHIBIT "B"**

**DESCRIPTION OF BASIC SERVICES, ADDITIONAL SERVICES  
AND EXCLUDED SERVICES**

- Waterproofing  
\_\_\_\_\_  
\_\_\_\_\_
- Lighting design  
\_\_\_\_\_  
\_\_\_\_\_
- Interior design (furniture, furnishings and artwork)  
\_\_\_\_\_  
\_\_\_\_\_
- Space planning for tenant or rental spaces  
\_\_\_\_\_  
\_\_\_\_\_
- Future (i.e., post-construction) facilities, systems and equipment  
\_\_\_\_\_  
\_\_\_\_\_
- Quantity surveys and inventories  
\_\_\_\_\_  
\_\_\_\_\_
- Appraisal of existing facilities  
\_\_\_\_\_  
\_\_\_\_\_
- Analyses of owning and operating costs  
\_\_\_\_\_  
\_\_\_\_\_
- Financial feasibility or other special financial studies  
\_\_\_\_\_  
\_\_\_\_\_
- On-Site traffic flow and traffic mitigation  
\_\_\_\_\_  
\_\_\_\_\_
- Measured drawings of Site  
\_\_\_\_\_  
\_\_\_\_\_
- Measured drawings of Existing Improvements  
\_\_\_\_\_  
\_\_\_\_\_



**EXHIBIT "B"**

**DESCRIPTION OF BASIC SERVICES, ADDITIONAL SERVICES  
AND EXCLUDED SERVICES**

**2.1.2 PLANNING/PROGRAMMING PHASE**

The Planning/Programming Phase commences upon execution of the Agreement and terminates upon approval by County of the Final Program for the Project and receipt by County of the other Design Documents required by this Paragraph 2.1.2 to be prepared by Architect as part of the Planning/Programming Phase.

**Yes**    **No**

       **.1 Alternate Design Approaches.** Review and recommend alternative approaches to the design of the Project, including, without limitation, development of conceptual alternatives based on different approaches to building location, massing and height.

       **.2 Alternative Structural Approaches.** Review and recommend alternative structural approaches for each of the different approaches recommended by the Architect for building location massing and height, including, without limitation, an analysis of how adjacent structures affect the structural design of the new structures.

       **.3 Alternative Contracting Approaches.** Recommend the method of contracting best suited to the Program and Master Project Schedule.

       **.4 Version Control Plan.** In addition to Architect's obligation for version control, if any, assumed under Subparagraph 2.1.7.17, Subpart (1) of this Exhibit "B", prepare for County's review and approval a comprehensive written plan setting forth systematic procedures for periodic and recurring updating of the Drawings and Specifications to systematically, comprehensively, efficiently and clearly incorporate and consolidate changes, additions and deletions to the Project.

       **.5 Design QAQC Plan.** In addition to Architect's general obligation for quality control under the Agreement, prepare for County's review and approval a written comprehensive plan setting forth systematic procedures during all Phases for periodic and recurring review of the Design Documents by employees of Architect who, acting independent of the Architect's employees involved in the preparation of the Design Documents, will check the Drawings and Specifications for (1) sufficiency, completeness, accuracy, constructability and coordination, and (2) conformance with the Design Coordination Standards and who will personally certify with each submission of Design Documents during the Schematic, Design Development and Final Construction Documents Phases that the Design Documents being submitted have been checked for compliance with the Design Coordination Standards.

       **.6 Electronic Document Management Manual.** Prepare a written management manual, developed in conjunction with County and incorporating software systems compatible with County's software, setting forth: (1) a systematic procedure for standardizing (utilizing AutoCAD for Drawings and MS Word for Specifications and other written documents) the requirements to be followed by other Project Team members for electronic preparation and delivery of drawings, plans, specifications and other documentation, including, but not limited to, Record Documents; and (2) procedures for implementation of County's electronic-based program management system, if any, for the Project.

       **.7 Existing Conditions.** Based on Architect's inspection of the visible conditions of the Site and Existing Improvements, Architect's functional testing of the Existing Improvements' operating systems (including mechanical, electrical, plumbing, fire protection and low voltage systems) and Architect's review of documentation that is available from County and current public records (including, without limitation, soils and geotechnical reports, environmental and hazardous materials surveys, as-built documentation, and public records pertaining to underground utilities), prepare a written report, data base and topographic map and survey setting forth: (1) a consolidated and coordinated statement of all



## EXHIBIT "B"

### DESCRIPTION OF BASIC SERVICES, ADDITIONAL SERVICES AND EXCLUDED SERVICES

available information concerning the conditions at the Site and in Existing Improvements; (2) identification of any conflicts between such information or between such information and the visible conditions of the Site or Existing Improvements; (3) confirmation of whether the Existing Improvements comply with Applicable Laws and the operating systems (including mechanical, electric, plumbing and low voltage systems) in Existing Improvements have sufficient capacity to support the proposed new designs; and (4) recommendations by the Architect for further investigation, exploration, inspection or testing by County or County's Consultants or for remediation to, or upgrading of, Existing Improvements found to be obsolete, in violation of Applicable Laws, or inadequate to support the proposed new designs.

#### .8 **Community Outreach.**

(1) Participate, as and when requested, in the County's program for outreach to neighborhood residents and their representatives to assess, evaluate and distribute information with respect to matters of community concern (including, without limitation, traffic, parking, view corridors, pedestrian access, public transportation access and paths of travel) and make recommendations to County for revisions to the Program in order to satisfy the expressed needs of the community.

(2) Prepare presentation materials (consisting of hand outs, summaries, charts and other appropriate paper and electronic visual aids) for  presentations to community groups designed to develop community consensus on a plan of development that, to the greatest extent possible, satisfies the requirements of the County's updated Program for the Project, as well as the expressed needs of the community.

.9 **Initial Program Review.** Make recommendations for revisions to the Initial Program, including advice on any impact that acceptance of such revisions by County would have upon the Master Project Schedule, in order to meet the County's most-current, stated goals and objectives and the requirements of Governmental Authorities for the Project.

.10 **Final Program.** In consultation with County and County's Consultants, prepare for County's review and approval revisions to the Initial Program leading to the development of a Final Program, which Final Program when complete shall consist of a comprehensive and complete written statement of the County's Project criteria, objectives and requirements, with reference to, without limitation, the following: (1) planning, space utilization, space flexibility and expandability, function, systems operations and special equipment; (2) typical room layout; (3) blocking and stacking diagrams depicting departmental relationships; (4) staff and visitor ingress, egress and circulation; (5) evaluations and tabulations of key functional spaces by type and location; (6) area calculations, based on net square feet, department gross square feet, building gross square feet and project gross square feet; and (7) a narrative explaining the reasons for any changes or deviations from the Initial Program.

.11 **Area Calculations.** Provide square footage area calculations, based upon the Final Program approved by County, for use by County in planning, demising and allocating spaces.

.12 **Perspective Drawings.** Provide  perspective drawings of the Project, as conceptualized in the Final Program approved by the County, representing the appearance of the Project from vantage points selected by County.

.13 **Massing Model.** Provide a study model showing in three dimensions the shape and mass of the building(s) on the Site.

.14 **Zoning.** Provide materials, such as, but not limited to, sketches and exhibits,

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required to secure applicable zoning and architectural committee approvals and variances necessary for the Project.

.15 **CEQA Compliance.** Prepare, for review and approval by County, California Environmental Quality Act compliance documentation and all pertinent studies required therein to satisfy the requirements of the California Environmental Quality Act.

**2.1.3 SCHEMATIC DESIGN PHASE**

The Schematic Phase commences upon the end of the Planning/Programming Phase and ends upon approval by County of the completed Schematic Design Documents.

Yes    No

.1 **Schematic Design Documents.** Prepare, for approval by County, **Three (3)** paper copy sets and an electronic version of the following Schematic Design Documents for the Project, consistent with the Final Program and the Architect's Project Schedule:

(1) **Site Plans.** Prepare Site plans depicting the Architect's concept for the completed Project, including: (a) preliminary circulation schemes for persons and vehicles and parking; (b) locations of fire hydrants and fire lanes; (c) areas of hardscape and softscape (including, but not limited to, plantings, service drives, loading docks, walkways, ramps, steps, stairs, retaining walls, planters, furnishings, wayfinding elements, plantings, light fixtures and other amenities); (d) Site elevation variations which affect circulation paths and drainage; (e) locations and dimensions of structures (new and existing), property lines, easements, setback requirements; with dimensioning (including, without limitation, at least four (4) dimensions for each side of the building (from fixed and verified landmarks) sufficient to demonstrate that all proposed buildings fit within the property lines, public rights of way, easements and the design space; (f) sections indicating massing and relationships to Existing Improvements and Site conditions; (g) a preliminary Site clearing and demolition plan depicting Existing Improvements and landscaping elements to be removed and to remain; and (h) a depiction of the preliminary routing of utility lines to proposed points of connection.

(2) **Building Grid.** Prepare a dimensioned building grid system for use by other Project Team members that provides a common reference for the coordinated documentation of the Work by other Project Team members and that includes (in the case of new construction) all walls and doors and (in the case of renovation) all Existing Improvements to remain.

(3) **Floor Plans.** Prepare preliminary floor plans depicting: (a) layout of walls, partitions, rooms (including room numbers and names), departmental boundaries, core elements (such as, but not limited to, lobbies, corridors, stairs, elevators, toilets, shafts, and chases), columns and other major structural elements, and sufficient dimensioning to demonstrate that all layouts fit within the design space; (b) if the Architect is providing design services related to furniture, furnishings and artwork, a proposed placement of furniture and furnishings in repetitive and typical conditions; and (c) basic criteria for major finish materials, along with a summary of comparative advantages based on cost, durability, ease of maintenance and appearance.

(4) **Façade Studies.** Prepare alternative façade studies, consisting of different proposed approaches to the design of the building exterior and details for each alternative describing proposed colors, materials and textures.

(5) **Roof Plans.** Prepare preliminary roof plans, shown against a

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background of structural gridlines and building dimensions, depicting the major elements of the roofed areas, including, without limitation, major penetrations, penthouses and identification of roof mounted equipment.

- (6) **MEP Studies.** Prepare: (a) an outline of alternative mechanical, electrical, plumbing, fire protection, and low voltage systems, preliminary sizing of major mechanical, electrical, plumbing and fire protection equipment and equipment rooms; (b) single line diagrams of mechanical, electrical, plumbing and fire suppression distributions; and (c) identification of special mechanical, electrical, plumbing and fire protection requirements (such as, but not limited to, exhaust requirements, emergency power and fire suppression).
- (7) **Life Cycle Costing.** Prepare an analysis of life cycle costs (including, without limitation, capital costs, operating costs, maintenance costs and simple payback analyses) and comparative performance characteristics of each alternative identified in the County's systems selections.
- (8) **Preliminary Structural Analysis.** Prepare (a) a preliminary design of the major structural elements for the Project that is coordinated with the requirements of Governmental Authorities and the recommendations of the County's Consultants in the field of geotechnical engineering and, accompanied by recommendations, if any, for additional studies, reports, exploration or testing of the Site or Existing Improvements; (b) foundation and framing (at each level of the building) design Plans, sufficient to permit preliminary cost estimating; and (c) a preliminary report of the dynamic performance of the structural system suitable for the proposed occupancy.
- (9) **Elevator Recommendations.** Prepare preliminary recommendations on the number, types, sizes and operational characteristics of elevators.
- (10) **Outline Specification.** Prepare an outline Specification covering all technical divisions of the Construction Specifications Institute format, or using such other format acceptable to County.
- (11) **Building Code Outline.** Prepare documentation (plans and/or narratives) addressing building codes and similar Applicable Laws which apply to the Project, accompanied by a delineation of key design criteria (such as, but not limited to, exits, travel distances, rated walls and corridors, building occupancy, construction type, and fire zones) required to meet such Applicable Laws.
- (12) **Area Calculations.** Prepare (a) square footage area calculations, based upon the Schematic Design Documents approved by County, for use by County in planning, demising and allocating spaces and (b) a comparison of areas in the Schematic Phase Documents to the areas set forth in the Final Program.
- (13) **Perspective Drawings.** Prepare   perspective drawings of the Project, as conceptualized in the Schematic Design Documents approved by the County, representing the appearance of the Project from vantage points selected by County.
- (14) **Schematic Model.** Prepare, and provide County with, a schematic model (at a minimum scale of 1/16<sup>th</sup> = 1'0"), constructed of simple materials such as foam board and hand drawn or pasted cut-outs, depicting in three dimensions the appearance of the building façade as shown in the Schematic Design Documents approved by County.
- (15) **Design Narrative.** Prepare a "basis of design" narrative and



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documentation supporting the design criteria for the structural elements (including structural loading), mechanical, electrical, plumbing, lighting, low voltage systems and other specialized building systems.

#### .2 Estimate of Construction Cost.

(1) Prepare, with the level of due care of a design professional and not a contractor or professional cost estimator, a preliminary written Estimate of Construction Cost based upon the Schematic Design Documents approved by County, including recommendations to County of opportunities for incorporation of design alternatives that will optimize quality and value consistent with the Fixed Limit, Final Program and Master Project Schedule.

(2) Review and comment upon the preliminary Estimate of Construction Cost prepared by Contractor or County's Consultant in cost estimating, including recommendations to the County of opportunities for incorporation of design alternatives that will optimize quality and value consistent with the Fixed Limit, Final Program and Master Project Schedule.

#### .3 Community Outreach.

(1) Participate, as and when requested, in the County's program for outreach to neighborhood residents and their representatives to assess, evaluate and distribute information with respect to matters of community concern (including, without limitation, traffic, parking, view corridors, pedestrian access, public transportation access and paths of travel) and make recommendations to County for revisions to the Program and Schematic Design Documents in order to satisfy the expressed needs of the community.

(2) Prepare presentation materials (consisting of hand outs, summaries, charts and other appropriate paper and electronic visual aids) for  presentation(s) to community groups designed to develop community consensus on a plan of development that, to the greatest extent possible, satisfies the requirements of the County's Program for the Project, as well as the expressed needs of the community.

.4 **Zoning.** Prepare for the County materials, such as, but not limited to, sketches and exhibits, required to secure applicable zoning and architectural committee approvals and zoning variances necessary for the Project.

.5 **Project Directory.** Prepare a Project directory stating complete contact information (name, address, telephone (office, home and cellular), fax, email) for each of the Project Team members.

.6 **Preliminary Project Specific Water Quality Management Plan.** Prepare for review and approval by the Department of Facilities Management's Design and Construction Division a preliminary project specific Water Quality Management Plan (WQMP) in accordance with the requirements of the applicable and adopted municipal separate storm sewer system (MS4) permit (including, without limitation, any amendments, orders and new permits that the Regional Water Quality Control Board has issued prior to, or issues after, execution of the Agreement by County and Architect, in connection with preparation of a project-specific WQMP), which permit(s) may include any of the following three (3) MS4 permits applicable within the County of Riverside:

Order No. R8-2002-0011, NPDES No. CAS 61833 adopted by the Santa Ana Regional Water Quality Control Board on October 25, 2002 for the Santa Ana Region.



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Order No. R7-2008-0001, NPDES No. CAS 617002 adopted by the Colorado River Basin Regional Water Quality Control Board on May 21, 2008 for the Whitewater River Region.

Order No. R9-2004-001, NPDES No. CAS 108766 adopted by the San Diego Regional Water Quality Control Board on July 14, 2004 for the Santa Margarita Region.

(The aforementioned permits describing the requirements for the WQMP can be provided by the Department of Facilities Management's Design and Construction Division). Architect will prepare the WQMP utilizing the approved template that can be found on Riverside County Flood Control's website at <http://www.floodcontrol.co.riverside.ca.us/> or, upon request, such template can be provided by the Department of Facilities Management's Design and Construction Division. Architect shall include all the necessary exhibits, reports, and data required for the preparation of the WQMP. Architect will make all the necessary revisions that are requested by the County to be made to the preliminary WQMP.

.7 **Municipal Facility Pollution Prevention Plan.** In accordance with the Riverside County Drainage Area Management Plan (DAMP) and the applicable MS4 permits described in Subparagraph 2.1.3.6, above, Architect shall prepare a Municipal Facilities Pollution Prevention Plan (MFPPP, or 3P). The MFPPP shall be prepared utilizing the approved template found in Appendix J of the Riverside County DAMP. Upon request, the Department of Facilities Management's Design and Construction Division can provide the Architect with the MFPPP template. The MFPPP will include the approved maintenance and inspection requirements of the structural BMPs (e.g. Treatment Control, etc.) identified in the project-specific WQMP. During the preparation of the MFPPP, the Architect, the Department of Facilities Management, and the user department for the County will coordinate inspection, maintenance, and repair responsibility of the BMPs as identified in the MFPPP. A draft MFPPP document will be prepared concurrently with the preliminary project-specific WQMP and will be reviewed by the Department of Facilities Management's Design and Construction Division.

**2.1.4 DESIGN DEVELOPMENT PHASE**

The Design Development Phase commences upon the end of the Schematic Design Phase and ends upon approval by County of the completed Design Development Documents.

Yes    No

.1 **Design Development Documents.** Prepare, for approval by County, **Three (3)** paper copy sets and an electronic draft of each and all of the Construction Documents, in a form that is: (1) substantially complete; (2) fully dimensioned; and (3) sufficiently developed so as to enable (a) County to obtain detailed, preliminary Contractor and Subcontractor materials take-offs and estimates of Construction Costs for the Project, and (b) Architect and other Project Team members to identify any significant obstacles or difficulties to achieving completion of the Project within the constraints of the Final Program, Fixed Limit, Architect's Project Schedule and Applicable Laws.

.2 **Estimate of Construction Cost.**

(1) Prepare, with the level of due care of a design professional and not a contractor or professional cost estimator, a detailed written Estimate of Construction Cost based upon the Design Development Documents approved by County, including recommendations to the County of opportunities for incorporation of design alternatives that will optimize quality and value consistent with the Fixed Limit, Final Program and Master Project Schedule.

(2) Review and comment upon the detailed Estimate of Construction Cost

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prepared by Contractor or County's Consultant in cost estimating based upon the Design Development Documents approved by County, including recommendations to the County of opportunities for incorporation of design alternatives that will optimize quality and value consistent with the Fixed Limit, Final Program and Master Project Schedule.

- .3 **Area Calculations.** Prepare square footage area calculations, based upon the Design Development Documents approved by County, for use by County in planning, demising and allocating spaces.
- .4 **Initial Palette Presentation.** Prepare and conduct an initial, formal presentation to County of Architect's recommendations and alternatives for finish materials and equipment, including acquiring and presenting physical samples of the materials for the exterior building envelope (including, without limitation, cladding, exterior finishes, glazing, trim, ornamental metals and roofing), interior (including, without limitation, finish materials for floors, walls, ceilings, doors, finish hardware, millwork, bathroom fixtures and lighting), wayfinding and signage, and (if the Architect is providing design services related to furniture, furnishings and artwork) furniture, furnishings and artwork.
- .5 **Circulation Plan.** In consultation with County, prepare a plan for providing the entering, exiting and circulation, as appropriate to the planned uses of the Site during construction, of the County's staff, occupants, visitors and public during construction, including, without limitation, pedestrian flow (including, without limitation, access and paths of travel for persons with disabilities), vehicular flow, parking, delivery paths, fire lanes and fire hydrants.
- .6 **Access and Staging Plan.** In consultation with County and its Contractor, prepare a plan showing access and exiting for construction equipment and crews and location for on-Site parking, storage and temporary construction facilities, fencing and temporary barricades.
- .7 **Shoring Plans.** Prepare Drawings delineating design and details for shoring, underpinning or tie backs.
- .8 **Post-Tension Design.** Retain Subconsultant to develop post-tension plans, details, and calculations for the post-tension slab-on-grade foundations.
- .9 **Computer Generated Perspectives.** Prepare and present to the County  (  ) computer generated "fly-through(s)" of the exterior and interior perspectives of the structure and primary interior spaces that is (are) based on the Design Development Documents approved by the County.
- .10 **Renderings.** Prepare  (  ) rendering(s) depicting, both in black and white and color, two dimensionally and pictorially, the elevation and perspective views of the Project from four (4) directions, professionally prepared by a Subconsultant experienced in preparation of design renderings.
- .11 **Presentation Model.** Prepare  (  ) presentation model(s) professionally prepared by a Subconsultant experienced in display models, in color, and built to a scale of 1/8<sup>th</sup> = 1'0".
- .12 **Project Directory.** Prepare an updated Project directory.

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#### 2.1.5 FINAL CONSTRUCTION DOCUMENTS PHASE

The Final Construction Documents Phase commences upon the end of the Design Development Phase and ends upon approval by County of the Final Construction Documents.

Yes    No

       .1    **Final Construction Documents.** Prepare, for approval by County, Final Construction Documents that are consistent with the Final Program, the in-progress Construction Documents approved by County during the Design Development Phase, Fixed Limit and the Architect's Project Schedule. **Three (3)** paper copy set(s) and an electronic version of the Final Construction Documents shall be submitted to County for review and approval at the point that they are (1) 50% complete, (2) 75% complete, (3) ready for submission to Governmental Authorities for plan check, and (4) completed to the point of being Final Construction Documents. Submission of Final Construction Documents shall include one (1) set of mylars, Three (3) sets of prints of all Drawings, **Three (3)** sets of the Specifications, and one (1) electronic version of all Drawings and Specifications.

       .2    **Stair Plans.** Prepare Drawings, enlarged to a scale of  $\frac{1}{4}''=1'-0''$ , coordinated with structural dimensions, delineating dimensions of risers, treads and landings and that comply with Applicable Laws governing exiting.

       .3    **Fixture and Equipment Schedules.** Prepare schedules for fixtures and equipment, including, without limitation, bathroom fixtures and accessories.

       .4    **Tabulated Schedules.** Prepare schedules for floor, ceiling and wall finishes, doors and windows and related hardware and openings and fixtures and equipment in tabular form by room number, location number and interior elevation.

       .5    **Dynamic Analyses.** Prepare Specifications for dynamic testing and analysis of the following building elements: [REDACTED]

       .6    **Window Wall.** Prepare Drawings and Specifications setting forth all of the essential prescriptive and performance criteria necessary for the Contractor to engineer and build an exterior window wall system.

       .7    **Emergency Water Storage System.** Prepare a designed system of water storage for emergency purposes.

       .8    **Fire Protection (Suppression and Detection) Systems.** Prepare fully engineered Drawings and Specifications delineating the fire suppression and detection systems that comply with the requirements of the County's insurance carriers and Applicable Laws, including, without limitation, a layout of the heads and the details of the interface with the fire alarm system and complete information on head end equipment (including, without limitation, annunciator panels, main and subordinate fire alarm annunciator panels, risers, conduit runs, terminal devices and zoning).

       .9    **Elevator System.** Prepare Drawings and Specifications delineating elevator designs, including, without limitation, sizing of shafts, elevator pits and elevator machine rooms, an overall building section of the hoistway, power and lighting requirements for the equipment room and cabs, elevator cab finishes and accessories, and a system for programming operations under normal and emergency conditions (including, without limitation, the interfaces between elevator functions and the fire alarm and security systems).



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- .10 **Mock-Up Criteria.** Prepare Drawings and Specifications delineating the design criteria for construction and testing of mock-ups for the following elements of the completed design:  
[REDACTED]
- .11 **Energy Plan.** Prepare a preliminary energy analysis demonstrating that the Project can meet the requirements of Title 24 of the California Code of Regulations, accompanied by a brief energy usage report identifying incorporation of any energy savings devices.
- .12 **Furniture, Furnishings, Artwork.** Prepare Drawings and Specifications delineating: (1) proposed materials, textures and colors for furniture, furnishings and artwork; and (2) placement of furniture, furnishings and artwork on architectural floor plans with an identification key which clearly indicates whether the items will be new, refurbished or reused and cross references for relocated items identifying location prior to and after relocation.
- .13 **Estimate of Construction Cost.**
- (1) Prepare, with the level of due care of a design professional and not a contractor or professional cost estimator, detailed written Estimates of Construction Cost based upon and submitted with each of the sets of progressive iterations of the Construction Documents that are required to be submitted by Architect to County pursuant to Subparagraph 2.1.5.1, above, including recommendations to the County of opportunities for incorporation of design alternatives that will optimize quality and value consistent with the Fixed Limit, Final Program and Master Project Schedule
- (2) Review and comment upon the detailed written Estimates of Construction Cost prepared by Contractor or County's Consultant in cost estimating that are based upon each of the sets of progressive iterations of the Construction Documents that are required to be submitted by Architect to County pursuant to Subparagraph 2.1.5.1, above, including recommendations to the County of opportunities for incorporation of design alternatives that will optimize quality and value consistent with the Fixed Limit, Final Program and Master Project Schedule.
- .14 **Area Tabulations.** Prepare tabulations of gross and assignable floor areas and parking counts.
- .15 **Final Palette Presentation.** Prepare and conduct a final, formal presentation to County for its approval of final finish materials and equipment, including acquiring and presenting physical samples of the materials for the exterior building envelope (including, without limitation, cladding, exterior finishes, glazing, trim, ornamental metals and roofing), interior (including, without limitation, finish materials for floors, walls, ceilings, doors, finish hardware, millwork, bathroom fixtures and lighting), wayfinding and signage, and (if the Architect is providing design services related to furniture, furnishings and artwork) furniture, furnishings and artwork.
- .16 **Updated Circulation, Access and Staging Plans.** Prepare an updated version of the Circulation Plan and Access and Staging Plan initially submitted during the Design Development Phase.
- .17 **Project Directory.** Prepare an updated Project directory.
- .18 **Stormwater Pollution Prevention Plan.** Prepare a Stormwater Pollution Prevention Plan (SWPPP) and associated monitoring plan in accordance with the requirements of the State of California General Permit for Stormwater Discharges Associated with Construction Activity (Water Quality Order 99-08-DWQ) and subsequent amendments or orders for construction activities as



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applicable. The Architect's engineering Subconsultant responsible for such matters shall prepare the Notice of Intent (NOI) and Notice of Termination (NOT) for the applicable Regional Water Quality Control Board and submit to same to the County's project manager. County will mail all Notices to the applicable Regional Water Quality Control Board or the State Water Resource Control Board. In addition and prior to ground disturbing activities (which may include, but are not limited to, clearing, grubbing, weed abatement, trenching, and other types of soil disturbance including grading), such engineering Subconsultant shall ensure that the Contractor's Best Management Practices are installed on-Site in accordance with the approved SWPPP that was prepared for the Project. A copy of the approved SWPPP shall be retained on the Site during the duration of construction. A draft copy of the SWPPP shall be submitted by Architect for review and approval by the County's Department of Facilities Management's Design and Construction Division prior to submittal of the NOI. Any changes requested by the Department of Facilities Management's Design and Construction Division will be implemented by Architect as revisions to the draft SWPPP and shall be re-submitted as a revised draft SWPPP. Upon final approval of the SWPPP, the Department of Facilities Management's Design and Construction Division will mail the NOI.

.19 **Final WQMP.** Prepare for review and approval by County's Department of Facilities Management, a final WQMP, including any changes to the preliminary WQMP as County may deem necessary or appropriate and provide two hardcopies of the final WQMP approved by County, along with a digital submission.

.20 **Final MFPPP.** Prepare for review and approval by County's Department of Facilities Management's Design and Construction Division, a final MFPPP, including any changes to the preliminary MFPPP as County may deem necessary or appropriate and provide two hardcopies of the final MFPPP approved by County, along with a digital submission.

#### **2.1.6 BIDDING PHASE**

The Bidding Phase shall commence upon direction by County for issuance of the Construction Documents to bidders or proposed Contractors or Separate Contractors and ends upon execution of the contracts between County and Contractor and the Separate Contractors for performance of the Work of the entire Project.

Yes   No

.1 **Prequalification.** Recommend prequalification criteria, assist in preparation of the prequalification documents and participate in the evaluation of prequalification submittals by proposed Contractors and Separate Contractors.

.2 **Addenda.** Prepare and obtain approval by Governmental Authorities of Addenda for issuance to the proposed Contractors and Separate Contractors.

.3 **Alternates.** Prepare documentation of alternates, assist County in the ranking of alternates for bidding and assist County in the evaluation of portions of bids or price proposals relating to pricing of alternates.

.4 **Substitutions.** Review and evaluate requests by bidders or proposers for substitutions of products or equipment and make recommendations to County for their approval or rejection.

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- .5 **Pre-Construction Conferences.** Attend, and arrange for necessary Subconsultants to attend, all pre-bid and pre-construction Site visits, tours and conferences conducted for proposed or selected Contractors, Separate Contractors or Subcontractors.
- .6 **Clarifications.** Prepare or secure from the appropriate Project Team member responses to questions by bidders or proposers and promptly forward each question and response to County for distribution.
- .7 **Schedule of Values.** Review the list of the cost items prepared by the selected Contractor and Separate Contractors to be included in the Schedule of Values to assess whether it appears, based upon Architect's review as a design professional and not a contractor or professional estimator, to represent a fair, balanced and reasonable allocation of costs, overhead and profit.
- .8 **Plans & Specifications.** Coordinate the transmittal of all final and complete Construction Documents to the proposed Contractors and Separate Contractors to ensure that the Construction Documents used for bidding are the same as the Final Construction Documents approved by County and stamped and approved by applicable Governmental Authorities. If any differences exist, report them promptly to County.
- .9 **Bid/Proposal Evaluations.** Assist County in the review and evaluation of bids and negotiated proposals for the Work by proposed Contractors, Separate Contractors and Subcontractors.
- .10 **Negotiation of Contracts.** Assist County in the preparation and negotiation of the legal terms and conditions of the Construction Contract between County and the Contractor and the contracts between County and Separate Contractors; provided, however, that County shall remain solely responsibility for the legal enforceability and sufficiency of such terms and conditions and provided further, that nothing herein shall be interpreted as authorizing or requiring the Architect to furnish legal advice to County.
- .11 **Multiple and Sequential Bid Packages.** Provide services for the implementation of multiple bid packages and sequential bidding.
- .12 **Long Lead Items.** Identify and recommend to the County a schedule for procurement of long lead time items and assist County in implementing such recommendations.
- .13 **Project Directory.** Prepare an updated Project directory.

**2.1.7 CONSTRUCTION PHASE**

The Construction Phase commences, following execution of the contract between County and Contractor, upon commencement by Contractor of performance of the Work and ends  (  ) Days after Final Completion of the entirety of the Work.

Yes    No

- .1 **General Obligation.** Unless and except otherwise indicated in this Paragraph 2.1.7, provide all services required by the Agreement or the General Conditions for the administration of the construction by the Contractor and Separate Contractors.

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- .2 **Meeting Minutes.** Prepare and distribute preconstruction and construction meeting minutes.
- .3 **Site Observations.** Observe construction at the Site as it progresses, as and when appropriate to the stage and progress of the Work and the needs of the Project, but not less frequently than monthly, for the purpose of: (1) ascertaining in general that the character, scope, quality and detail of construction (including workmanship and materials) comply with the Contract Documents, County's directives, approved Submittals, Architect clarifications and requirements of Applicable Laws; (2) evaluating the progress of the Work; (3) evaluating the suitability of the Project, or any portion designated by County, for use or occupancy; (4) investigating and responding to design and constructibility issues or questions of concern to any Project Team member, or as noted in any inspection reports furnished to Architect; (5) observing the overall quality of Contractor's performance; (6) reviewing specifically and in detail the visible condition of the construction of structural components, building systems and other crucial components of the Work; and (7) observing the performance of specified or directed tests significant to the acceptability of components of the Work. Such observations shall be separate from any inspections which may be provided by inspectors retained by County, Contractor, Separate Contractors or others and such inspections shall not relieve Architect of its responsibilities under the Agreement. Any Subconsultant who has prepared designs or specifications shall be responsible to conduct such observations, in accordance with the provisions of this Subparagraph, only as to those portions of the Work that he/she has so designed or specified.
- .4 **Site Observation Reports.** Within three (3) working days after the occurrence of a Site observation by Architect or a Subconsultant, submit to County, in accordance with a format approved in advance by County, a written report detailing the observations made at the Site.
- .5 **Fabricated Materials.** Check fabricated materials and equipment located on or outside the Site when such checks are required by the Contract Documents.
- .6 **Applications for Payment.** If and when requested by County, evaluate Applications for Payment by the Contractor and Separate Contractors and the data comprising Applications for Payment and provide recommendations (and, if requested by County, issue certifications using the current Forms G702 and G703 published by the American Institute of Architects or other forms satisfactory to County) as to whether the Work has progressed to the point indicated in such Applications for Payment and whether, to the best of Architect's knowledge based on its periodic observations conducted at the Site, the Work is in accordance with the Contract Documents; provided, however, that any of Architect's recommendations or certifications in that regard are subject to: (1) an evaluation of the Work upon Substantial Completion; (2) the results of subsequent tests and inspections; (3) minor deviations from the Contract Documents correctable prior to Final Completion; and (4) specific qualifications expressed by Architect that are consistent with its obligations under this Agreement.
- .7 **Substantial Completion, Final Completion.** Accompany and assist County in evaluating (and, if requested by County, issue certifications using the current Form G704 published by the American Institute of Architects or other forms satisfactory to County) Substantial Completion and Final Completion and the status of Contractor's and Separate Contractors' performance of "punch lists" of minor items of Work to be completed or corrected for Substantial Completion and Final Completion and advise the County whether punch list items have been completed in accordance with the requirements of the Contract Documents.
- .8 **Interpretations.** If requested by County, issue interpretations and clarifications, in narrative form or in the form of revised Drawings or Specifications, as appropriate. Unless otherwise directed by County, such clarifications and interpretations shall be transmitted to the County in writing for distribution, as County deems appropriate, to other designated Project Team members and shall not be

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communicated to any other Project Team member (other than County) by Architect or its Subconsultants unless approved by County in writing.

.9 **Requests for Information.** Architect shall provide responses to requests for information to the County within  ( ) Days after Architect receives such request from Contractor or a Separate Contractor, except that responses to request for information that the Contractor or a Separate Contractor has labeled as "critical" shall be provided within  ( ) Days after receipt by Architect. Unless otherwise directed by County, such responses shall be transmitted to the County in writing for distribution, as County deems appropriate, to other designated Project Team members and shall not be communicated to any other Project Team member (other than County) by Architect or its Subconsultants unless approved by County in writing.

.10 **Design Changes and Clarifications.** Prepare Drawings and Specifications in connection with the issuance of Construction Change Directives, Change Orders and responses to requests for information by Contractor and Separate Contractors, and where required secure approvals thereof by Governmental Authorities in accordance with Applicable Laws.

.11 **Assistance in Evaluation of Changes, Claims.** Provide advice and support to County in evaluating the Contractor's and Separate Contractors' entitlement to additional costs, time extensions and claims and assist County in the resolution thereof.

.12 **Tracking of Changes, Claims.** Log, track and issue such reminders to other Project Team members as necessary to expedite processing of Change Orders, Construction Change Directives, responses to requests for information and claims.

.13 **Submittals.** Review and approve (or take such other action leading to the correction, resubmittal and ultimate approval by Architect) Submittals for the limited purpose of checking for conformance with the information given in, and the design concept expressed by, the Contract Documents. Architect's action shall be taken with such reasonable promptness, not to exceed in any event fourteen (14) Days, so as to not Delay progress of the Work of the Contractor or the Separate Contractors, while allowing a reasonable time for such professional review. Such review shall not constitute approval of safety precautions or, unless specifically required by the Contract Documents, the Contractor's means, methods, techniques, sequences or procedures. Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification by a Contractor or a Separate Contractor, or any Subcontractor, of performance characteristics of materials, systems or equipment is required by the Contract Documents, Design Consultant shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents. Architect shall, if requested by County, log, track and issue such reminders to other Project Team members as necessary to expedite processing of Submittals.

.14 **Change Orders, Construction Change Directives.** Provide services for the preparation of revisions in Design Documents in connection with the issuance of Construction Change Directives and Change Orders.

.15 **Claims.** Provide services to assist in evaluating claims on the part of the Contractor or a Separate Contractor; provided, however, that nothing herein shall be interpreted as obligating the County to compensate Architect where the claim or any defense to the claim is based, in whole or in part, on an allegation asserted, in good faith, that Architect or a Subconsultant was negligent or that Architect has violated an obligation under this Agreement.

.16 **Destruction of Work.** Provide consultation and services concerning replacement



## EXHIBIT "B"

### DESCRIPTION OF BASIC SERVICES, ADDITIONAL SERVICES AND EXCLUDED SERVICES

of Work damaged during construction by fire or other cause.

#### .17 Record Documents.

(1) Promptly and continuously throughout the Construction Phase, update the Construction Documents to incorporate changes to the Work reflected in Change Orders, Construction Change Directives, Submittal revisions requested by Architect or its Subconsultants and responses by Architect or its Subconsultants to requests for information or clarification from Contractor or Separate Contractors. Such updating shall be accomplished electronically, using AutoCAD, Adobe Acrobat or other software satisfactory to the County. Architect shall transmit the updated Construction Documents to the Contractor or Separate Contractors on a frequent and regular basis, no less frequently than monthly or as often as required to maintain the progress of the Work, to allow for prompt pricing of Changes Orders and to facilitate performance by Contractor and Separate Contractors of their obligations with respect to posting and maintaining Record Drawings and Specifications.

(2) Review the Record Documents assembled by the Contractor and Separate Contractors to determine if the assembly is complete and in the form required by the Contract Documents.

(3) Review Record Documents submitted by the Contractor and Separate Contractors to determine if the information contained therein is internally consistent and corresponds to the condition of the visible, non-concealed conditions at the Site at the time of Final Completion. If a discrepancy is noted by Architect in the course of its review, return the Record Documents to County with a notation of the discrepancy, who shall coordinate further review and correction by the Contractor or Separate Contractors.

(4) Certify in writing that, to the best of Architect's knowledge based upon Architect's review of the visible, non-concealed conditions at the Site and other available as-built information, the Record Drawings and Specifications accurately depict the actual, as-built condition of the Project.

(5) Based upon the Record Documents prepared by the Contractor and Separate Contractors and any other information available to Architect concerning the as-built conditions of the Work (including, without limitation, any conditions noted by Architect, Subconsultants or County Consultants during the commissioning), Architect shall within One (1) month(s) after Final Completion, convert the Contractor's and Separate Contractors' complete and corrected Record Documents to a fully consolidated and coordinated final electronic set (using CAD) of Record Documents. Such Record Documents shall be prepared by Architect's neatly inserting, accurately annotating and thoroughly cross-referencing, in a single, record set of electronically prepared Drawings and Specifications, all of the information available concerning the as-built condition of the Project. Architect shall, upon completion thereof mark each page of the Record Drawings and the cover page of the Record Specifications prominently with: (1) the words "Record Documents"; and (2) the Architect's manual signature certifying that: "Based upon Architect's review of the visible, non-concealed conditions at the Site and other available as-built information, these Drawings and Specifications have been approved by Architect as accurately depicting the actual, as-built condition of the Project."

.18 **Square Footage Calculations.** Prepare one (1) set of final square footage area calculations after Final Completion of the Project for use by County in planning, demising and allocating spaces for sale or lease.

.19 **Full-Time Site Representative.** Provide the services of a full-time representative at the Site.

**EXHIBIT "B"**

**DESCRIPTION OF BASIC SERVICES, ADDITIONAL SERVICES  
AND EXCLUDED SERVICES**

- .20 **Site Office.** Provide and maintain a temporary office trailer at the Site.
- .21 **Mitigation Monitoring and Reporting Program.** In compliance with the California Environmental Quality Act (CEQA), ensure that the Mitigation Monitoring and Reporting Program (MMRP) as part of the CEQA compliance process noted previously in Paragraph 2.1.2.15, above, is implemented prior to and during ground disturbing activities (ground disturbing activities may include, but are not limited to, grading, clearing, grubbing, weed abatement, trenching, equipment staging, and other types of soil disturbance).

**2.1.8 POST-COMPLETION PHASE**

Yes / No

Conduct, with participation of each of the Subconsultants, a review of the Project ten (10) months after Final Completion for the purpose of observing the condition in the Work. Within thirty (30) Days after completion of such review, make written recommendations to County for the correction of any Defective Work discovered. Architect shall be accompanied by County during such review of the Work. The number of work hours by Architect and its Subconsultants to complete such review and written recommendations shall not exceed a total of  (  ) hours. Hours expended due to conditions encountered that are attributable to the negligence of Architect or its Subconsultants or the failure by Architect to comply with this Agreement shall not be included in the aforementioned calculation of hours and shall be provided at Architect's Own Expense. Hours expended for such services that are in excess of the maximum number of hours stated herein shall, if and to the extent approved in advance in writing by County, be compensated as Additional Services.

## EXHIBIT "C"

### INITIAL PROGRAM

See Attached GKK Works proposal dated August 8, 2016 (revised) consisting of eight (8) pages.

Handwritten initials, possibly 'JH', are written inside a rectangular box. The initials are written in a cursive style.

August 8, 2016 Revised

Mr. Dominick Lombardi  
Facilities Project Manager III  
Project Management Office  
Riverside County – Economic Development Agency  
3403 10th Street  
Riverside, CA 92501

Subject: Architectural / Engineering Fee Proposal  
Project No. FM08270007365  
Riverside County Fire Department – Perris Fire Administration Offices  
403 East 4th Street, Perris, CA 92570

Dear Dominick:

gkkworks is pleased to present this proposal for Architectural, Structural, Mechanical, Plumbing, and Electrical Engineering services for the design and construction phases of the Riverside County Fire Department – Perris Fire Administration Offices, located at 403 East 4th Street, in Perris, California.

The following document outlines our understanding of project scope and schedule.

## **PROJECT DESCRIPTION**

We understand the County will renovate and modernize the existing 12,000 square foot, one story building, in Perris, CA to accommodate the Administrative Offices of the Riverside County Fire Department. The project is intended to provide but not limited to the following functions:

- Administration and Office Space
- Staff offices and work areas
- Reception
- Copy and storage rooms
- File storage room
- Training/ break room
- Staff restrooms
- I.T. rooms
- Conference rooms

The offices will be occupied by the Finance, Cost Recovery, and Information Technology Divisions of the Riverside County Fire Department.

The construction budget is approximately \$2,000,000.

## **SCOPE OF BASIC SERVICES**

### **1. Design Phase:**

- a. Verify existing conditions - jobsite investigation.
  - i. Examine site and review record drawings to ascertain existing conditions.
  - ii. The survey is required to compare the record drawings of the site and remodel areas to the actual layout and system configurations installed.
- b. Utilize client-provided project program.
- c. Meetings:
  - i. Attend two (2) meetings to:



1. Confirm Programs
  2. Confirm Conceptual Layout.
  3. Review project status.
  4. Determine project systems.
- d. Code Analysis / Review.
- e. Schematic Design layouts.
- i. Includes indication of major furnishing items. It is noted that the County's vendor will provide selection and procurement of FFE.
- f. Design Narrative.
- i. Architectural, Interior Design, Structural, Mechanical, Electrical, and Plumbing.
  - ii. Begin selection of interior finish materials and colors.
- g. Single Line Diagrams.
- i. Mechanical, electrical, plumbing systems.
  - ii. Identify utility POC and routing.
- h. Prepare initial Estimate of Probable Construction Costs
- i. Project Estimate - Reconcile Scope and Budget.
- j. **Design Phase Deliverables:**
- i. Architectural Program
  - ii. Estimate of Probable Construction Costs
  - iii. Basis of Design Narrative – Architecture, Interior Design, Mechanical, Electrical, and Plumbing Design.
  - iv. Drawings:
    1. Site Plan.
      - a. Accessible Path-of-Travel to building (Civil Engineer to assist).
    2. Demolition Plan.
    3. Architectural Floor Plan:
      - a. Identifying the various major areas and their relationship. Include circulation and room-by-room tabulation of all net usable floor areas and a summary of gross floor area.
      - b. Scaled, dimensioned floor plans with final room locations including all openings.
    4. Reflected Ceiling Plan:
      - a. Lighting and HVAC devices shown.
    5. Interior Design:
      - a. Prepare Test Fit Plan.
      - b. Layout Tenant Spaces.
      - c. Reflected Ceiling Plan design.
      - d. Interior Color Palette/Interior Finishes.
      - e. Rendered Finish Plan.
    6. Structural:
      - a. Structural floor plan with major structural modifications and/or members located and sized.
    7. Mechanical:
      - a. Preliminary mechanical systems assessment.
      - b. Heating and cooling load calculations
      - c. Mechanical Plans with major duct or pipe runs substantially located and sized to interface with structural.
      - d. Schedules with major mechanical equipment indicating size and capacity.
      - e. Devices in ceiling located.
    8. Electrical:
      - a. Electrical distribution Single line drawing(s) showing major distribution system.
      - b. Schedules with major equipment indicated.
      - c. Location and preliminary sizing of all major electrical systems and components indicating size and capacity.
      - d. Electrical Floor Plans:
        - i. Power, Data/Telephone, Lighting, Fire Alarm.

- v. Structural, Mechanical, and Electrical systems assessment.
- vi. Binder with catalogue cut sheets of selected equipment, finishes, etc.
- vii. Preliminary LEED Certification Scorecard.

**2. Construction Documents:**

- a. Based on County approved Design Development materials, provide a biddable set of Construction Documents, including Architectural, Interior Design, Structural, Mechanical, Plumbing, and Electrical drawings and specifications.
- b. Update and develop Project Specifications.
- c. Finalize Equipment lists, Calculations, and other documentation.
- d. Attend two (2) client meetings to review project status, confirm outstanding issues, project systems, detailing, and constructability issues.
- e. QA/QC review and coordination
- f. **Construction Documents Phase Deliverables:**
  - i. Updated Estimate of Probable Construction Costs
  - ii. Drawings:
    - 1. Architectural:
      - a. Title Sheet
      - b. General Notes / Code Information / Symbols / Legends - ready for plan check.
      - c. Site Plan.
      - d. Demolition Floor Plan.
      - e. Floor Plan - Scaled, dimensioned floor plans with final room locations including all openings.
      - f. Enlarged Floor Plans - Areas where more detail is required.
      - g. Reflected Ceiling Plan - coordinated with floor plans and mechanical and electrical systems.
      - h. Interior Elevations.
      - i. Architectural sections and details.
      - j. Finish, Door, and Hardware schedules.
    - 2. Interior Design:
      - a. Interior finish plans.
      - b. Interior finish schedules.
      - c. Interior elevations.
      - d. Interior cabinetry/millwork detailing.
      - e. Enlarged Toilet Room design and finishes
      - f. Interior Color Palette/Interior Finishes.
      - g. Final Rendered Finish Plan.
    - 3. Structural:
      - a. Structural floor plan with major structural modifications and/or members located and sized.
      - b. Structural roof plan.
    - 4. Mechanical:
      - a. Completed Mechanical Schedules.
      - b. Completed Mechanical Floor and Roof Plans.
      - c. Large scale mechanical details completed.
      - d. Completed electrical schematic for HVAC equipment.
      - e. Complete energy conservation calculations and report.
    - 5. Electrical:
      - a. Electrical Floor Plans completed:
        - i. Power, Data/Telephone, Lighting, Fire Alarm.
      - b. Lighting and power plan including all switching and controls. Fixture schedule and lighting details completed.
      - c. Distribution information on all power consuming equipment, including lighting, power, signal and communication device(s) branch wiring completed.
      - d. Electrical equipment schedules completed.

- e. Special system components plans completed.
  - f. Electrical load calculations completed.
  - iii. Completed Specifications / Project Manual – All disciplines.
  - iv. Final Color Boards with interior finish samples.
  - v. LEED Certification Scorecard.
3. **Agency Plan Review:**
- a. Submit Plans to County of Riverside.
    - i. Incorporate plan review comments into the drawings and specifications.
    - ii. Obtain County of Riverside Plan Approval.
4. **Bid Phase:**
- a. Attend Pre-Bid Conference.
  - b. Prepare Bid Phase Addendums, respond to RFI's, and review Requests for Substitutions.
  - c. Assist County with evaluation of Bids if needed.
5. **Construction Administration Phase:**
- a. Review of Shop Drawings and Submittals.
  - b. Provide responses for RFI's.
  - c. Review Contractor's Pay Applications.
  - d. Perform Periodic Field Observation for conformance to approved plans.
  - e. Attend bi-weekly OAC / Construction Progress Meetings.
  - f. Prepare Punch List.

## **PROJECT CONSULTANT TEAM**

**Architecture:**

**gkkworks**  
1775 Hancock Street, Suite 150  
San Diego, CA 92110  
Contact: Matthew Greiner, AIA, NCARB

**Structural Engineer:**

**VCA Engineers**  
2151 Michelson Dr. #242  
Irvine, CA 92612  
Contact: Young Nam, SE, PE

**Mechanical Engineer:**

**ASYS, Inc. - Consulting Mechanical Engineers**  
16755 Von Karman Avenue, Suite 200,  
Irvine, CA 92606  
Contact: Marc Anderson, PE

**Electrical Engineer:**

**RASC Engineering - Consulting Electrical Engineers**  
12941 Riley Court  
Rancho Cucamonga, CA 91739  
Contact: Joe Rogowicz, EE

## SCHEDULE

We are prepared to commence these services immediately upon receipt of your written authorization to proceed. The Preliminary Schedule below shall serve as the basis for the development of this project through all phases of the project. Modifications to scope, selection or construction process, and/or schedule adjustments will be updated upon resolution throughout the project.

| <u>Phase</u>            | <u>Duration</u> |
|-------------------------|-----------------|
| Design:                 | 6 weeks         |
| Construction Documents: | 6 weeks         |
| Agency Review:          | 4 weeks         |
| Bid and Award:          | 6 weeks         |
| Construction:           | 16 weeks        |

## COMPENSATION

For the Base Scope of Basic Services as described above, we propose a fixed fee of \$186,068 (One-hundred, eighty-six thousand and sixty-eight dollars), in accordance with the schedule below:

|                               |       |       |           |  |                   |                      |
|-------------------------------|-------|-------|-----------|--|-------------------|----------------------|
| <b>Architecture</b>           |       |       |           |  | <b>\$ 113,590</b> | <b>See Breakdown</b> |
| Breakdown by Phase and Staff: |       |       |           |  |                   |                      |
| Design Phase                  | Rate  | Hours | Fee       |  | \$ 40,520         |                      |
| PIC                           | \$205 | 24    | \$ 4,920  |  |                   |                      |
| PM                            | \$175 | 96    | \$ 16,800 |  |                   |                      |
| PC                            | \$130 | 120   | \$ 15,600 |  |                   |                      |
| Drafting                      | \$100 | 32    | \$ 3,200  |  |                   |                      |
| CD Phase                      | Rate  | Hours | Fee       |  | \$ 41,320         |                      |
| PIC                           | \$205 | 24    | \$ 4,920  |  |                   |                      |
| PM                            | \$175 | 96    | \$ 16,800 |  |                   |                      |
| PC                            | \$130 | 120   | \$ 15,600 |  |                   |                      |
| Drafting                      | \$100 | 40    | \$ 4,000  |  |                   |                      |
| Agency                        | Rate  | Hours | Fee       |  | \$ 4,880          |                      |
| PM                            | \$175 | 16    | \$ 2,800  |  |                   |                      |
| PC                            | \$130 | 16    | \$ 2,080  |  |                   |                      |
| Bid Phase                     | Rate  | Hours | Fee       |  | \$ 5,430          |                      |
| PIC                           | \$205 | 6     | \$ 1,230  |  |                   |                      |
| PM                            | \$175 | 24    | \$ 4,200  |  |                   |                      |
| CA Phase                      | Rate  | Hours | Fee       |  | \$ 21,440         |                      |
| PIC                           | \$205 | 16    | \$ 3,280  |  |                   |                      |
| PM                            | \$175 | 16    | \$ 2,800  |  |                   |                      |
| PC                            | \$130 | 96    | \$ 15,360 |  |                   |                      |
| <b>Interior Design</b>        |       |       |           |  | <b>\$ 12,478</b>  | <b>See Breakdown</b> |
| Breakdown by Phase and Staff: |       |       |           |  |                   |                      |
| Design Phase                  | Rate  | Hours | Fee       |  | \$ 5,832          |                      |
| Sr Proj Int Designer          | \$142 | 24    | \$ 3,408  |  |                   |                      |
| Proj Int Designer             | \$101 | 24    | \$ 2,424  |  |                   |                      |
| CD Phase                      | Rate  | Hours | Fee       |  | \$ 4,374          |                      |
| Sr Proj Int Designer          | \$142 | 18    | \$ 2,556  |  |                   |                      |
| Proj Int Designer             | \$101 | 18    | \$ 1,818  |  |                   |                      |
| CA Phase                      | Rate  | Hours | Fee       |  | \$ 2,272          |                      |
| Sr Proj Int Designer          | \$142 | 16    | \$ 2,272  |  |                   |                      |
| <b>Civil Engineering</b>      |       |       |           |  | <b>\$ 7,000</b>   | <b>Lump Sum Fee</b>  |
| <b>Structural Engineering</b> |       |       |           |  | <b>\$ 10,000</b>  | <b>Lump Sum Fee</b>  |



|  |       |       |          |  |                   |                      |
|--|-------|-------|----------|--|-------------------|----------------------|
| <b>Mechanical &amp; Plumbing Engineering</b> |       |       |          |  | <b>\$ 21,600</b>  | <b>Lump Sum Fee</b>  |
| <b>Electrical Engineering</b>                |       |       |          |  | <b>\$ 15,000</b>  | <b>Lump Sum Fee</b>  |
| <b>Estimating</b>                            |       |       |          |  | <b>\$ 6,400</b>   | <b>See Breakdown</b> |
| Breakdown by Phase and Staff:                |       |       |          |  |                   |                      |
| Design Phase                                 | Rate  | Hours | Fee      |  | \$ 1,920          |                      |
| Constr. Estimator                            | \$160 | 20    | \$ 3,200 |  |                   |                      |
| CD Phase                                     | Rate  | Hours | Fee      |  | \$ 3,200          |                      |
| Constr. Estimator                            | \$160 | 20    | \$ 3,200 |  |                   |                      |
| <b>AE FEE TOTAL</b>                          |       |       |          |  | <b>\$186,068</b>  |                      |
| <b>Allowances:</b>                           |       |       |          |  |                   |                      |
| LEED   |       |       |          |  | \$10,000          |                      |
| Allowance for electrical recordings          |       |       |          |  | \$6,000           |                      |
| Allowance for initial HVAC Air Surveys       |       |       |          |  | \$5,000           |                      |
| <u>Allowance for Scope Adjustments</u>       |       |       |          |  | <u>\$7,200</u>    |                      |
| <b>TOTAL + Allowances</b>                    |       |       |          |  | <b>\$ 214,268</b> |                      |

Reimbursable Expenses such as general copying, printing, plotting, postage/delivery, mileage, and other authorized expenditures shall not exceed \$5,000 and will be invoiced at cost.

We propose that the Fee shall be invoiced for each phase as shown by the following breakdown:

|                                  |     |
|----------------------------------|-----|
| Design:                          | 30% |
| Construction Documents:          | 35% |
| County or Riverside Plan Review: | 10% |
| Bid and Award:                   | 5%  |
| Construction:                    | 20% |

**ASSUMPTIONS**

This proposal is based on the following assumptions to establish scope of services and expectations for deliverable packages and schedule:

- Payment of Agency Fees (if any) shall be by the County.
- Coordinate with County Vendor, fixtures and equipment.
- Seismic upgrade work to facility is excluded.
- Existing Plumbing and Electrical main systems have the capacity to accommodate the remodel without modifications or the addition of new equipment.
  - A full systems assessment will be provided in the Design Phase.
  - Should items/systems (i.e. HVAC units) be found that are not compliant or not able to adequately serve the project, the scope of work will be adjusted for new items, without additional fees.
- Additional work not indicated above is excluded.
- A Prescriptive Approach for Title 24 Lighting Energy Calculations will be provided.
- Upgrades for accessible path-of-travel or areas outside of the building are beyond the scope of this proposal.
- Hazard Materials Surveys.
- Construction Administration Phase includes a maximum of 6-hours per week for 16-weeks.
- Extension of Project/Construction Schedule will require additional compensation.

**TERMS AND CONDITIONS**

Terms and Conditions will be pursuant to this proposal and the County of Riverside Professional Services Agreement. If you find this proposal satisfactory, please indicate your acceptance by signing one copy and returning it to us for our files. It will be used as the basis of a formal contract incorporating the intent of this proposal.

Thank you for the opportunity to submit our proposal to Riverside County – Economic Development Agency. We look forward to working with you on this important project. Please indicate your acceptance by signing one copy and returning it to us for our files. If you have any questions please contact me at (951) 801-7124 (Ext. 1049) with questions.

Sincerely,

SUBMITTED BY:

ACCEPTED BY:

gkkworks

Riverside County – Economic Development Agency



Signature: \_\_\_\_\_

Matthew S. Greiner, AIA, NCARB  
Principal, Regional Manager  
License #C-27137  
Date: August 8, 2016

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Attachments:

Attachment A – Hourly Rate Schedule for Architectural Services

**ATTACHMENT A**  
**HOURLY RATE SCHEDULE FOR ARCHITECTURAL SERVICES**

|   |        |
|---|--------|
| Principal-in-Charge                       | \$ 225 |
| Director of Design                        |        |
| Design Principal                          |        |
| Project Director                          | \$190  |
| Director of Sustainable Design            |        |
| Senior Project Manager                    | \$170  |
| Senior Project Architect                  |        |
| Senior Project Designer                   |        |
| Senior Construction Administrator         | \$155  |
| Director of Building Information Modeling |        |
| Senior Project Interior Designer          | \$142  |
| Project Manager                           | \$140  |
| Project Architect                         |        |
| Project Designer                          |        |
| Project Interior Designer                 | \$101  |
| Construction Administrator                | \$130  |
| Project Coordinator                       |        |
| Senior Architect                          |        |
| Senior Job Captain                        | \$120  |
| Job Captain                               | \$110  |
| Senior Designer                           |        |
| Architectural Staff                       | \$95   |
| Designer                                  |        |
| Administrative                            | \$85   |
| Graphic Support Specialist                |        |
| Intern                                    | \$50   |

Hourly rates are effective to December 31, 2016 and may be subject to adjustment following this date for cost of living and other market conditions.

## EXHIBIT "D"

### MASTER PROJECT SCHEDULE

| <u>Description</u>   | <u>Date</u>         |
|--|---------------------|
| 1. Commencement of Schematic/ Design Development Phase   | 8/29/16             |
| 2. Completion of Schematic/ Design Development Phase   | 10/31/16            |
| 3. Commencement of Final Construction Documents Phase  | 11/7/16             |
| Submission to Governmental Authorities Date/Agency Review  | 12/19/16            |
| Final Construction Documents Completion Date   | 1/16/17             |
| 8. Commencement of Bidding/Negotiation Phase and Award   | 1/23/17             |
| 9. Completion of Bidding/Negotiation Phase and Award   | 3/20/17             |
| 10. Commencement of Construction   | 3/27/17             |
| 11. Construction Period (Estimated only. Actual construction period will be established when the Construction Contract is executed by Contractor and County) | 7/17/17<br>16 weeks |





# EXHIBIT "E"

## KEY PERSONNEL LIST

| <b>Name:</b>    | <b>Job Title:</b>   |
|-----------------|---------------------|
| Brandon Dekker  | Principal           |
| Matthew Greiner | Project Manager     |
| Jeff Fuller     | Architect           |
| Sean Kim        | Interior Designer   |
| Ed Olha         | Scheduler           |
| Young Nam       | Structural Engineer |
| Marc Anderson   | Mechanical Engineer |
| Joe Rogowicz    | Electrical Engineer |

Handwritten initials and signatures in black ink, appearing to be 'MAG' and a signature.

**EXHIBIT "F"**

**SUBCONSULTANTS AND COUNTY CONSULTANTS LIST**

**Subconsultants retained by Architect:**

---

\_\_\_\_\_  
Name: VCA Engineers

Address: 2151 Michelson Dr #242  
Irvine, CA 92612  
Telephone: 949-679-0870  
Facsimile: 949-679-9370

\_\_\_\_\_  
Name: ASYS, Inc.

Address: 16755 Von Karman, Suite 200  
Irvine, CA 92606  
Telephone: 626-252-2308  
Facsimile:

\_\_\_\_\_  
Name: RASC Engineering

Address: 12941 Riley Court  
Rancho Cucamonga, CA  
91739  
Telephone: 909-609-1888  
Facsimile:

\_\_\_\_\_  
Name:

Address:  
  
Telephone:  
Facsimile:

**County Consultants retained by County: N/A**

---

\_\_\_\_\_  
Name:

Address:

Telephone:  
Facsimile:

\_\_\_\_\_  
Name:

Address:

Telephone:  
Facsimile:

\_\_\_\_\_  
Name:

Address:

Telephone:  
Facsimile:

EXHIBIT "G"

**REIMBURSABLE EXPENSES SCHEDULE**

| <u>Description</u>  | <u>Unit Price</u> | <u>Unit of Measure</u> |
|---|-------------------|------------------------|
| <u>Agreed Rates for Reimbursable Expenses:</u>                  |                   |                        |
| Copies  | \$0.10            | /Sheet                 |
| Blueprints  | \$0.40            | /S.F.                  |
| Vellums   | \$1.80            | /S.F.                  |
| Sepias  | \$1.80            | /S.F.                  |
| Disks   | \$5.00            | EA.                    |
| Others:   | N/A               |                        |
| <u>Vehicle Mileage</u>  | \$0               | mile                   |
| <u>Agreed Markups:</u>  |                   |                        |
| Architect's Markup on Direct Costs                              | 10%               | Actual Cost            |
| Architect's Markup on Subconsultant Costs                       | 0 %               | Actual Cost            |
| Subconsultant Markup on Subconsultant Costs                     | 10 %              | Actual Cost            |
| <u>Reimbursable Expenses Not-to-Exceed Amount (individual):</u> | \$500.00          |                        |
| <u>Reimbursable Expenses Not-to-Exceed Amount (aggregate):</u>  | \$5,000           |                        |



# EXHIBIT "H"

## HOURLY RATES SCHEDULE

See attached GKK Works Hourly Rate Schedule.

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Project No. FM08270007365  
Riverside County Fire Department - Perris Fire Administration Offices  
August 8, 2016 Revised

**ATTACHMENT A**  
**HOURLY RATE SCHEDULE FOR ARCHITECTURAL SERVICES**

|   |        |
|---|--------|
| Principal-in-Charge                       | \$ 225 |
| Director of Design                        |        |
| Design Principal                          |        |
| Project Director                          | \$190  |
| Director of Sustainable Design            |        |
| Senior Project Manager                    | \$170  |
| Senior Project Architect                  |        |
| Senior Project Designer                   |        |
| Senior Construction Administrator         | \$155  |
| Director of Building Information Modeling |        |
| Senior Project Interior Designer          | \$142  |
| Project Manager                           | \$140  |
| Project Architect                         |        |
| Project Designer                          |        |
| Project Interior Designer                 | \$101  |
| Construction Administrator                | \$130  |
| Project Coordinator                       |        |
| Senior Architect                          |        |
| Senior Job Captain                        | \$120  |
| Job Captain                               | \$110  |
| Senior Designer                           |        |
| Architectural Staff                       | \$95   |
| Designer                                  |        |
| Administrative                            | \$85   |
| Graphic Support Specialist                |        |
| Intern                                    | \$50   |

Hourly rates are effective to December 31, 2016 and may be subject to adjustment following this date for cost of living and other market conditions.


# EXHIBIT "I"

## PAYMENT SCHEDULE

Phase:

Payment Percentage:

|                           |     |
|---------------------------|-----|
| Programming/Schematic/ DD | 30% |
| Construction Documents    | 35% |
| County Plan Review        | 10% |
| Bid and Award             | 5%  |
| Construction Phase        | 20% |



## EXHIBIT "J"

### REFERENCE DOCUMENTS LIST

The Architect shall take into consideration in its preparation of the Design Documents the constraints, requirements and recommendations contained in the existing studies, reports and documents provided by the County or otherwise available as a matter of public record, including but not limited to the following Reference Documents:

| <b>Reference Document:</b>   | <b>Prepared By:</b>                        | <b>Dated:</b> |
|--|--|---------------|
| 1. ALTA Survey   | N/A  |               |
| 2. Boundary Survey   | N/A  |               |
| 3. Topographic Map   | N/A  |               |
| 4. Soils/Geotechnical Report   | N/A  |               |
| 5. Master Plan   | N/A  |               |
| 6. Zoning Plan   | N/A  |               |
| 7. C C & R's   | N/A  |               |
| 8. Traffic Report  | N/A  |               |
| 9. Acoustical Report   | N/A  |               |
| 10. As-Built Documents for Existing Improvements   | N/A  |               |
| 11. Environmental Impact Report  | N/A  |               |
| 12. Hazardous Materials Survey(s)  | MTGL, Inc;                                 |               |
| a. Phase I Environmental Site Assessment (ESA)   | County Environmental Health;               |               |
| b. Phase II (if applicable)  | EEL Geotechnical & Environmental Solutions |               |
| c. Abatement Reports (if applicable)   |  |               |
| 13. CEQA compliance documentation and associated Mitigation Monitoring and Reporting Program (which may include, but not be limited to, other technical studies such as Air Quality, Biological Resources, and Cultural Resources) | Exemption                                  |               |

**EXHIBIT "K "**

**STANDARD FORM OF GENERAL CONDITIONS**

*(Attach General Conditions of the Standard Form of Construction Contract Between  
County and Contractor)*

Handwritten initials in a box, appearing to be 'H' and 'J'.



**GENERAL CONDITIONS OF**  
**THE STANDARD FORM CONSTRUCTION CONTRACT**  
**BETWEEN COUNTY AND CONTRACTOR**

(LONG FORM)

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**GENERAL CONDITIONS OF**  
**THE STANDARD FORM CONSTRUCTION CONTRACT**  
**BETWEEN COUNTY AND CONTRACTOR**

(LONG FORM)

**ARTICLE 1**  
**GENERAL PROVISIONS**

**1.1 DEFINITIONS**

**1.1.1 Acceptance.** "Acceptance" means the point that the Project is formally accepted by the Board of Supervisors and a Notice of Completion is recorded by County.

**1.1.2 Act of God.** "Act of God" means earthquake, natural flood, tornado or other unusually severe natural or weather phenomenon occurring at the Site and causing Delay to performance of the Work at the Site; provided, however, that precipitation and winds shall not be an Act of God unless it exceeds in any given month the 10-year average of monthly levels as established by the National Oceanic and Atmospheric Administration ("NOAA") according to NOAA's records of measurable precipitation and winds taken at NOAA's recording station located within the Riverside County basin area that is nearest to the Site.

**1.1.3 Addendum.** "Addendum" means written or graphic information (including, without limitation, Drawings or Specifications) issued prior to the Bid Closing Deadline, which modifies or interprets the Bidding Documents by additions, deletions, clarifications or corrections.

**1.1.4 Admitted Surety.** "Admitted Surety" means a surety insurer that is duly certified pursuant to California Insurance Code §995.120 to transact business as a surety in the State of California.

**1.1.5 Allowable Costs.** "Allowable Costs" means those costs listed in Paragraph 7.7.3, below, that are used in calculating Contract Adjustments to the Contract Price.

**1.1.6 Allowable Markups.** "Allowable Markups" means those percentage markups listed in Paragraph 7.7.5, below, used in calculating Contract Adjustments to the Contract Price.

**1.1.7 Alternate.** "Alternate" means a proposed alternative described in the Bidding Documents adding to, or deleting from, the Bidding Documents a particular material, system, product or method of construction.

**1.1.8 Applicable Laws.** "Applicable Laws" means all statutes, ordinances, rules, regulations, policies and guidelines enacted by Governmental Authorities (including, without limitation, Environmental Laws and Disability Laws), codes adopted or promulgated by Governmental Authorities (including, without limitation, building and health and safety codes), lawful orders of Governmental Authorities and common law, including, but not limited to, principles of equity applied by the courts of the State of California, which are in effect at the time the Work is performed.

**1.1.9 Application for Payment.** "Application for Payment" means Contractor's itemized application for Progress Payment or Final Payment prepared, submitted and substantiated in accordance with the requirements of the Contract Documents.

**1.1.10 Architect.** "Architect" means the design professional retained by County that is primarily responsible for the preparation of the Drawings and Specifications for the Project.

**1.1.11 Assistant CEO/EDA.** "Assistant CEO/EDA" means the Assistant CEO for the Economic Development Agency, or his/her designee.

1.1.12 **Award.** "Award" means either (1) a minute order duly adopted by the Board of Supervisors approving County's entering into the Construction Contract with Contractor or (2) execution of the Construction Contract by the Clerk of the Board.

1.1.13 **Base Bid.** "Base Bid" means the sum of money stated in a Bid for which the Bidder proposes to perform the Work, exclusive of adjustments for Alternates.

1.1.14 **Bid.** "Bid" means the completed and signed Bid Form and other Bid Submittals submitted by a Bidder to County in response to the Notice Inviting Bids and in accordance with the Instructions to Bidders.

1.1.15 **Bid Amount.** "Bid Amount" means the dollar amount that is used as the basis for determining which Bidder has submitted the lowest Bid price for purposes of Award pursuant to the County's chosen method of Award set forth in Paragraph 4 5.3 of the Instructions to Bidders.

1.1.16 **Bid Bond.** "Bid Bond" means alternative form of Bid Security submitted by a Bidder that consists of a surety bond issued by a Surety.

1.1.17 **Bid Closing Deadline.** "Bid Closing Deadline" means the deadline (date and time) for receipt of Bids by County that is stated in the Bidding Documents, as adjusted by Addendum.

1.1.18 **Bid Form.** "Bid Form" means the form prescribed by the Bidding Documents to be completed and signed by a Bidder showing the dollar amount(s) of its Bid.

1.1.19 **Bid Security.** "Bid Security" means a deposit of cash, certified or cashier's check or bond submitted by a Bidder in accordance with the Bidding Documents guaranteeing that if Award is made to the Bidder, the Bidder will enter into the Construction Contract and furnish the Performance Bond and Payment Bond and other Post-Award Submittals.

1.1.20 **Bid Submittal.** "Bid Submittal" means a document that Bidder is required by the Bidding Documents to submit with or as part of its Bid.

1.1.21 **Bidder.** "Bidder" means a person or entity submitting a Bid for Award of the Construction Contract.

1.1.22 **Bidding Documents.** "Bidding Documents" means the following collection of documents prepared and issued by County relating to the Project:

- .1 Notice Inviting Bids;
- .2 Instructions to Bidders;
- .3 Bid Form;
- .4 Standard Form of Construction Contract Between County and Contractor (unsigned);
- .5 General Conditions to Standard Form of Construction Contract Between County and Contractor (Long Form);
- .6 Specifications;
- .7 Plans and Drawings;
- .8 Addenda;
- .9 Reference Documents;
- .10 Safety Program; and

.11 those documents, or those portions or provisions of documents, that, although not listed in Subparagraph 1.1.22.2 through Subparagraph 1.1.22.10, above, are expressly cross-referenced therein or attached thereto, including, without limitation, all documents submitted by Contractor as part of its Bid or Post-Award Submittals.

1.1.23 **Board of Supervisors.** "Board of Supervisors" means the Board of Supervisors for the County of Riverside.

1.1.24 **Change.** "Change" means a modification, change, addition, substitution or deletion in the Work or in Contractor's means, methods, manner, time or sequence of performing the Work arising from any cause or circumstances, including, without limitation, either directly at the request of County or constructively by reason of other circumstances. Use of the term "Change," in any context, in the Contract Documents shall not be interpreted as implying that Contractor is entitled to a Contract Adjustment on any basis other than as permitted by the terms of the Contract Documents for Compensable Change, Deleted Work or Compensable Delay.

1.1.25 **Change Order.** "Change Order" means a written instrument, signed in accordance with the requirements of the General Conditions, setting forth the agreement of County and Contractor on the terms of a Contract Adjustment.

1.1.26 **Change Order Request.** "Change Order Request" means Contractor's written request for a Contract Adjustment pursuant to Paragraph 7.6.2, below.

1.1.27 **Claim.** "Claim" means a written demand or assertion by Contractor seeking, as a matter of right, an interpretation of contract, payment of money, recovery of damages or other relief. A Claim does not include the following: (1) tort claims for personal injury or death; (2) stop payment notice claims; (3) a determination of the right of County to specific performance or injunctive relief to compel performance; (4) a determination of the right of County to suspend, revoke or limit the Contractor's Prequalification status or rating or to debar Contractor from bidding or contracting with County; or (5) a determination of the right of County under Applicable Laws to terminate the Construction Contract and/or recovery of penalties imposed upon Contractor for violation of statutory obligations under Public Contract Code §4100 *et seq.*

1.1.28 **Close-Out Documents.** "Close-Out Documents" means all Record Documents, warranties, guarantees, technical information, operations manuals, replacement parts, excess and attic stock and other documents (including, without limitation, electronic versions and hard copies) and things required to be submitted by Contractor under the Contract Documents as a condition of Final Completion or Final Payment.

1.1.29 **Compensable Change.** "Compensable Change" means circumstances involving the performance of Extra Work:

.1 that are the result of

(1) Differing Site Conditions,

(2) amendments or additions to Applicable Laws, which amendments or additions are enacted after the Bid Closing Deadline,

(3) a Change requested by County in accordance with the conditions of authorization applicable to Compensable Changes set forth in Article 7, below, or

(4) other circumstances involving a Change in the Work for which Contractor is given under the Contract Documents a specific and express right to a Contract Adjustment to the Contract Price;

.2 that are not caused, in whole or in part, by an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, or violation of an Applicable Law, or by a failure of Contractor or a Subcontractor, of any Tier, to comply with the Contract Documents;

.3 for which a Contract Adjustment is neither prohibited by nor waived under the terms of the Contract Documents; and

.4 that if performed would require Contractor to incur additional and unforeseeable Allowable Costs that would not have been required to be incurred in the absence of such circumstances.

1.1.30 **Compensable Delay.** "Compensable Delay" means a Delay to the critical path of activities affecting Contractor's ability to achieve Substantial Completion of the entirety of the Work within the Contract Time:

.1 that is the result of

(a) a Compensable Change,

(b) the active negligence of County, Architect, a County Consultant or a Separate Contractor,

(c) a breach by County of an obligation under the Contract Documents, or

(d) other circumstances involving Delay for which Contractor is given under the Contract Documents a specific and express right to a Contract Adjustment adjusting the Contract Price;

.2 that is not caused, in whole or in part, by an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, or a violation of an Applicable Law, or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents; and

.3 for which a Contract Adjustment to the Contract Time is neither prohibited by nor waived under the terms of the Contract Documents.

1.1.31 **Construction Change Directive.** "Construction Change Directive" means a written instrument signed in accordance with the requirements of Article 7, below, that: (1) directs the performance of a Change that does not involve a Contract Adjustment; (2) establishes a mutually agreed basis for compensation to Contractor for a Compensable Change under circumstances where performance of the Compensable Change needs to proceed in advance of the County performing a full evaluation of the Contractor's rights relative to a Contract Adjustment; or (3) directs performance of Work or a Change with respect to which there exists a dispute or question regarding the terms of a Contract Adjustment.

1.1.32 **Construction Contract.** "Construction Contract" means the written form of Standard Form of Construction Contract Between County and Contractor included in the Bidding Documents signed by County and Contractor.

1.1.33 **Construction Schedule.** "Construction Schedule" means the detailed, critical path schedule prepared by Contractor in accordance with the requirements of the Contract Documents showing Contractor's plan for performance of the Work within the Contract Time.

1.1.34 **Contract Adjustment.** "Contract Adjustment" means an adjustment, additive or deductive, to the Contract Price or Contract Time that is permitted by the Contract Documents due to circumstances constituting a Compensable Change, Compensable Delay or Deleted Work.

1.1.35 **Contract Documents.** "Contract Documents" means the following collection of documents:

.1 Construction Contract;

.2 Addenda;

.3 General Conditions;

- .4 Specifications;
- .5 Plans and Drawings;
- .6 Modifications;
- .7 Reference Documents;
- .8 Change Orders;
- .9 Unilateral Change Orders;
- .10 Construction Change Directives;
- .11 Safety Program;
- .12 other documents that comprise exhibits, attachments or riders to the documents listed in preceding Subparagraph 1.1.35.1 through Subparagraph 1.1.35.11, above;
- .13 executed Declaration of Sufficiency of Funds;
- .14 executed Non-Collusion Declaration; and
- .15 if the Bidding Documents limit bidding to Prequalified Bidders, those written representations, obligations or responsibilities made, acknowledged or assumed by the Bidder as part of the applicable Prequalification conducted by County, including, without limitation, any continuing obligations assumed by Contractor to disclose false or misleading information, report changes in ownership or management and comply with minimum safety requirements.

1.1.36 **Contract Price.** "Contract Price" means the dollar amount set forth in the Construction Contract as the total compensation payable by County to Contractor for complete performance by Contractor in accordance with the Contract Documents of the Work and other obligations assumed by Contractor under the Contract Documents.

1.1.37 **Contract Time.** "Contract Time" means the total number of Days set forth in the Construction Contract within which Contractor is obligated to achieve Substantial Completion and/or Final Completion of the Work, as extended or shortened by Contract Adjustments.

1.1.38 **Contractor.** "Contractor" means the person or entity identified by County as the Bidder receiving Award of the Construction Contract.

1.1.39 **Contractor Amount.** "Contractor Amount" means the component amount calculated on behalf of Contractor pursuant to Paragraph 15.1.5, below, that is used to determine the total net amount payable to Contractor or County in the event of a partial or full termination or discontinuance of the Work.

1.1.40 **Contractor's Own Expense.** "Contractor's Own Expense" means that Contractor agrees to assume sole responsibility to pay and be responsible for any resulting or associated Loss and Delay, without any Contract Adjustment and without any other form of compensation or reimbursement, of any kind, by County.

1.1.41 **County.** "County" means the County of Riverside, a political subdivision of the State of California.

1.1.42 **County Amount.** "County Amount" means the component amount calculated on behalf of County pursuant to Paragraph 15.1.5, below, that is used to determine the total net amount payable to Contractor or County in the event of a partial or full termination or discontinuance of the Work.



1.1.43 **County Consultant.** "County Consultant" means a consultant, other than Architect, engaged by County (or engaged as a subconsultant to the Architect or a County Consultant) to provide professional advice to County with respect to the design, construction or management of the Project.

1.1.44 **County Review Date.** "County Review Date" means an end date set forth in the Construction Schedule or Submittal Schedule within which County, Architect or a County Consultant is to provide information, review documents or render decisions, approvals or disapprovals.

1.1.45 **County Review Period.** "County Review Period" means a period of time set forth in the Construction Schedule or Submittal Schedule within which County, Architect or a County Consultant is to provide information, review documents or render decisions, approvals or disapprovals.

1.1.46 **County Risk Manager.** "County Risk Manager" means the individual employee of the County acting as its risk manager.

1.1.47 **County Website.** "County Website" means the website maintained by County at <http://www.rivcoeda.org>.

1.1.48 **Date of Commencement.** "Date of Commencement" means the starting date used for calculation of the Contract Time, and is the date, no earlier than the first working day following issuance of the Notice to Proceed, that is fixed in the Notice to Proceed issued by the County or, if no Notice to Proceed is issued, the Day that the Contractor actually commences Work at the Site in accordance with Paragraph 8.1.1, below.

1.1.49 **Day.** "Day", whether capitalized or not, and unless otherwise specifically provided, means calendar day, including weekends and Holidays.

1.1.50 **Declaration of Sufficiency of Funds.** "Declaration of Sufficiency of Funds" means the declaration, in the form included in the Bidding Documents, required to be submitted by Contractor under circumstances where Contractor has not executed a collective bargaining agreement covering the workers who will be employed to perform the Work.

1.1.51 **Defective Work.** "Defective Work" means materials, equipment, labor, workmanship, construction services or other construction work comprising the Work by Contractor or a Subcontractor that (1) is faulty, omitted, incomplete, or deficient, or (2) does not conform to Applicable Laws, the Contract Documents, or the requirements of any inspection, reference standard, test, code or approval specified in the Contract Documents.

1.1.52 **Delay.** "Delay" means any circumstances involving delay, disruption, hindrance or interference.

1.1.53 **Deleted Work.** "Deleted Work" means Work that is eliminated or its scope or cost reduced pursuant to a Change Order or Unilateral Change Order.

1.1.54 **Department of Industrial Relations.** "Department of Industrial Relations" means The Department of Industrial Relations of the State of California.

1.1.55 **Design Discrepancy.** "Design Discrepancy" means an error, omission, conflict, ambiguity, lack of coordination or noncompliance with Applicable Laws contained in the Bidding Documents, Contract Documents, Reference Documents or other information made available by County to Contractor prior to or after the Bid Closing Deadline.

1.1.56 **Design Documents.** "Design Documents" means all originals, copies and drafts of plans, drawings, tracings, specifications, programs, reports, calculations, presentation materials, models, building information models and other writings or materials containing designs, specifications or engineering information related to the Work or Project prepared by Architect, County Consultants, Contractor, Separate Contractors or Subcontractors including, without limitation, computer aided design materials, electronic data files and paper copies. The term "Design Documents" includes both the written documents and all building and other designs depicted therein.

1.1.57 **Design Intent.** "Design Intent" means the general intended design objectives of the Design Documents prepared by Architect and County Consultants, as described in Paragraph 1.2.1, below.

1.1.58 **Designation of Subcontractors.** "Designation of Subcontractors" means the list of proposed Subcontractors prepared by the Bidder pursuant to California Public Contract Code §§4100 et seq.

1.1.59 **Differing Site Condition.** "Differing Site Condition" means an unforeseen condition that constitutes a basis for Contract Adjustment pursuant to Paragraph 4.3.8, below.

1.1.60 **Disability Laws.** "Disability Laws" means applicable federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any Government Authority, which regulate, relate to or impose liability or standards of conduct with respect to, or accessibility for, persons with disabilities, including, without limitation, the Americans with Disabilities Act (42 USCA §§ 12101 et seq.) and the Fair Housing Amendments Act of 1988 (42 USCA §§ 3604 et seq.).

1.1.61 **Discovery Date.** "Discovery Date", generally used in reference to Contractor's obligation to give written notice of certain facts, conditions or circumstances, means the earlier of the dates that Contractor or any Subcontractor either: (1) discovered such facts, conditions or circumstances; or (2) should have discovered such facts, conditions or circumstances in the exercise of the level of care required by the terms of the Standard of Performance.

1.1.62 **Drawings.** "Drawings" means graphic and pictorial documents showing the design, location and dimensions of the Project, and generally includes plans, elevations, subparagraphs, details, schedules and diagrams. The term "Drawings" is used interchangeably with "Plans".

1.1.63 **EDA.** "EDA" means the Economic Development Agency for the County of Riverside

1.1.64 **Environmental Laws.** "Environmental Laws" means all applicable federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees and permits or other requirements of any Governmental Authority, which regulate, relate to, or impose liability or standards of conduct concerning any Hazardous Substance (including, without limitation, the use, handling, transportation, production, disposal, discharge or storage thereof), occupational or environmental conditions on, under, or about the Site or Existing Improvements (including, without limitation, soil, groundwater, and indoor and ambient air conditions), environmental protection (natural or manmade resources), or occupational health or industrial hygiene (but only to the extent related to Hazardous Substances on, under, or about the Site or Existing Improvements), as now or may at any later time be in effect, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 [42 U.S.C.A. §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 [42 U.S.C.A. §§ 6901 et seq.]; the Clean Water Act (also known as the Federal Water Pollution Control Act) [33 U.S.C.A. §§ 1251 et seq.]; the Toxic Substances Control Act [15 U.S.C.A. §§ 2601 et seq.]; the Hazardous Substances Transportation Act [49 U.S.C.A. §§ 1801 et seq.]; the Insecticide, Fungicide, Rodenticide Act [7 U.S.C.A. §§ 136 et seq.]; the Superfund Amendments and Reauthorization Act [42 U.S.C.A. §§ 6901 et seq.]; the Clean Air Act [42 U.S.C.A. §§ 7401 et seq.]; the Safe Drinking Water Act [42 U.S.C.A. §§ 300f et seq.]; the Solid Waste Disposal Act [42 U.S.C.A. §§ 6901 et seq.]; the Surface Mining Control and Reclamation Act [30 U.S.C.A. §§ 1201 et seq.]; the Emergency Planning and Community Right to Know Act [42 U.S.C.A. §§ 11001 et seq.]; the Occupational Safety and Health Act [29 U.S.C.A. §§ 655 and 657]; the Residential Lead-Based Paint Exposure Act (Title X of the Housing and Community Development Act of 1992) [15 U.S.C.A. §§ 2681 et seq.]; the Lead-Based Paint Poisoning Prevention Act [42 U.S.C.A. §§ 4821 et seq.]; the Federal Endangered Species Act, the California Endangered Species Act, the Migratory Bird Treaty Act, the National Environmental Policy Act, the California Environmental Quality Act, Porter Cologne Water Quality Act (California Water Code §§ 13000 et seq), and all similar federal, state or local laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements.

1.1.65 **Escrow Agent.** "Escrow Agent" means an entity serving as escrow agent pursuant to California Public Contract Code §22300 in connection with the deposit of securities or retention.

1.1.66 **Escrow Bid Documents.** "Escrow Bid Documents" means all written documentation and electronic files reflecting the basis for and calculation of a Bid, including, without limitation, estimates, quantity take-offs, price quotations, product data, pricing data, memoranda, narratives, add/deduct sheets and reports (including, without

limitation, reports on conditions at, under, or in the vicinity of the Site). The term "Escrow Bid Documents" does not include copies of Bidding Documents if they are not needed to comply with the requirements of the Bidding Documents applicable to submission of Escrow Bid Documents.

1.1.67 **Event of Contractor Default.** "Event of Contractor Default" means any of the events constituting default by Contractor as set forth in Paragraph 15.1.1, below.

1.1.68 **Evidence of Insurance.** "Evidence of Insurance" means the statement, completed by Bidder in the form included in the Bidding Documents, evidencing the Bidder's compliance with the insurance requirements of the Bidding Documents.

1.1.69 **Excusable Delay.** "Excusable Delay" means a Delay, other than a Compensable Delay, to Contractor's ability to achieve Substantial Completion or Final Completion of the Work within the Contract Time that is: (1) not caused, in whole or in part, by an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, a violation of an Applicable Law or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents; (2) unforeseeable, unavoidable and beyond the control of Contractor and the Subcontractors, of every Tier; and (3) the result of a Force Majeure Event. Without limitation to the foregoing, neither the bankruptcy, insolvency nor financial inability of Contractor or a Subcontractor, of any Tier, nor any failure by a Subcontractor, of any Tier, to perform any obligation imposed by contract or Applicable Laws shall constitute a ground for Excusable Delay.

1.1.70 **Existing Improvements.** "Existing Improvements" means all improvements located on the Site as of the Bid Closing Deadline, whether above or below the surface of the ground, including, but not limited to, existing buildings, utilities, infrastructure improvements and other facilities.

1.1.71 **Extra Work.** "Extra Work" means labor, materials, equipment, services or other work, not reasonably inferable by Contractor or its Subcontractors from the design and other information set forth in the Bidding Documents, the performance of which requires the expenditure by Contractor of additional and unforeseen Allowable Costs. References to Extra Work shall not be interpreted to mean or imply that Contractor is entitled to a Contract Adjustment unless such Extra Work constitutes a Compensable Change.

1.1.72 **Final Completion, Finally Complete.** "Final Completion" and "Finally Complete" mean the point at which the following conditions have occurred with respect to the entire Work:

- .1 the Work is fully completed, including all minor corrective, or "punch list," items;
- .2 all permits, approvals and certificates by Governmental Authorities, such as, but not necessarily limited to, a permanent or temporary certificate of occupancy required to occupy and use the Work have been issued free of any conditions that are the result of an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, a violation of an Applicable Law or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents;
- .3 the Work and the related portions of the Site have been thoroughly cleared of all construction debris and cleaned in accordance with the requirements of the Contract Documents, including, but not necessarily limited to where applicable, the following: removal of temporary protections; removal of marks, stains, fingerprints and other soil and dirt from painted, decorated and natural-finished woodwork and other Work; removal of spots, plaster, soil and paint from ceramic tile, marble and other finished materials; all surfaces, fixtures, cabinet work and equipment are wiped and washed clean and in an undamaged, new condition; all aluminum and other metal surfaces are cleaned in accordance with recommendations of the manufacturer; and all stone, tile and resilient floors are cleaned thoroughly in accordance with the manufacturer's recommendations and buff dried by machine to bring the surfaces to sheen;
- .4 all conditions set forth in the Contract Documents for Substantial Completion of the Work have been, and continue to be, fully satisfied;



.5 all conditions pertaining to the Work and required for the release of County's obligations (including, but not limited to, release of County's bond obligations) to Governmental Authorities (including, but not limited to, matters involving grading, flood control, public works, transportation and traffic) have been satisfied; and

.6 Contractor has delivered to County all Close-Out Documents.

1.1.73 **Final Completion Punch List.** "Final Completion Punch List" means the list of minor items of Work to be completed or corrected by Contractor for Final Completion.

1.1.74 **Final Payment.** "Final Payment" means payment by County to Contractor of the entire unpaid balance of the Contract Price due to Contractor following Final Completion.

1.1.75 **Force Majeure Event.** "Force Majeure Event" means, and is restricted to, any the following: (1) Acts of God occurring at the Site; (2) terrorism or other acts of a public enemy; (3) orders of Governmental Authorities (including, without limitation, unreasonable and unforeseeable Delay in the issuance of permits or approvals by Governmental Authorities that are required for the Work); (4) epidemics or quarantine restrictions; (5) strikes and other organized labor action occurring at the Site and the effects thereof on the Work to the extent such strikes and other organized labor action are beyond the control of Contractor and its Subcontractors, of every Tier, and to the extent the effects thereof cannot be avoided by use of replacement workers or implementation of a dual gate system of entry to the Site; or (6) unusual shortages in materials that are supported by documented proof that (a) Contractor made every effort to obtain such materials from all available sources, (b) such shortage is due to the fact that such materials are not physically available from single or multiple sources or could have been obtained only at exorbitant prices entirely inconsistent with current rates taking into account the quantities involved and the usual industry practices in obtaining such quantities, and (c) such shortages and the difficulties in obtaining alternate sources of materials could not have been known or anticipated as of the Bid Closing Deadline.

1.1.76 **Fragnet.** "Fragnet" means a contemporaneous, fragmentary scheduling network, which graphically identifies the sequencing of all critical and non-critical new activities and/or activity revisions affected by a Compensable Delay or Excusable Delay with logic ties to all affected existing activities noted on the Construction Schedule, that isolates and quantifies a time impact of a specific issue, determines and demonstrates any such specific Delay in relation to past and/or other current Delays and provides a method for incorporating all Contract Adjustments to the Contract Time into an update of the approved Construction Schedule.

1.1.77 **General Conditions.** "General Conditions" means the herein set forth general terms and conditions governing performance of the Work.

1.1.78 **General Requirements.** "General Requirements" means the portion of the Specifications so titled setting forth additional requirements for administration of the Work.

1.1.79 **Good Faith Determination.** "Good Faith Determination" means a determination made by the Assistant CEO/EDA or other authorized representative of County, which he/she believes in good faith to be a proper exercise of County's rights and to have a reasonable basis in fact, whether or not such determination is in fact proper, reasonable or correct or adjudged to be so.

1.1.80 **Governmental Authority.** "Governmental Authority" means the United States, the State of California, the County of Riverside (acting in its regulatory, rather than proprietary, capacity), the City in which the Project is located, any other local, regional, state or federal political subdivision, authority, agency, department, commission, board, bureau, court, judicial or quasi-judicial body, and any legislative or quasi-legislative body, or instrumentality of any of them, which exercises jurisdiction over the Project, Work, Site, Contractor or County, including, without limitation, any Governmental Authority having jurisdiction to review and approve or reject the Contract Documents or the Work based on compliance or non-compliance with Applicable Laws.

1.1.81 **Governmental Authority Review Period.** "Governmental Authority Review Period" means a period of time set forth in the Construction Schedule or Submittal Schedule for Governmental Authority review, and/or approval, of the Work.

**1.1.82 Guarantee To Repair Period.** "Guarantee To Repair Period" means the period of time set forth in Section 13.3, below, for repair or replacement of Defective Work.

**1.1.83 Hazardous Substance.** "Hazardous Substance" means either of the following: (1) any chemical, material or other substance defined as or included within the definition of "hazardous substances," "hazardous wastes," "extremely hazardous substances," "toxic substances," "toxic material," "restricted hazardous waste," "special waste," "contamination" or words of similar import under any Environmental Law, including, without limitation, the following: petroleum (including crude oil or any fraction thereof), asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs") and PCB-containing materials, whether or not occurring naturally; or (2) any substance that because of its quantity, concentration or physical or chemical characteristics poses a significant present or potential hazard to human health and safety or to the environment, and which has been determined by any Governmental Authority to be a hazardous waste or hazardous substance.

**1.1.84 Holiday.** "Holiday" means a Day recognized by County as being a legal holiday for its staff and employees.

**1.1.85 Indemnitees.** "Indemnitees" means those persons or entities listed in Paragraph 3.18.1, below, as the "Indemnitees".

**1.1.86 Inspector of Record.** "Inspector of Record" means a person designated by the County to perform inspections on behalf of the County, who may be an employee or an independent consultant to County.

**1.1.87 Installation Subcontractor.** "Installation Subcontractor" means a Subcontractor who performs a portion of the Work that includes providing substantial, rather than minor and incidental, services for the installation of temporary or permanent materials, equipment or facilities at the Site.

**1.1.88 Instructions to Bidders.** "Instructions to Bidders" means the portion of the Bidding Documents setting forth the requirements to be followed by Bidders in preparing and submitting Bids.

**1.1.89 Intellectual Property Rights.** "Intellectual Property Rights" means all intellectual property rights, including, without limitation, patent, trademark, trade dress, copyright, industrial design rights, priority rights and trade secrets.

**1.1.90 Key Personnel, Key Persons.** "Key Personnel" and "Key Persons" mean those individuals employed by Contractor as described in Paragraph 3.8.1, below, and any replacements thereto approved by County, whose personal performance is deemed of the essence to the Construction Contract.

**1.1.91 Loss, Losses.** "Loss" and "Losses" mean any and all economic and non-economic losses, costs, liabilities, claims, damages, cost escalations, actions, judgments, settlements, expenses, fines, penalties and punitive damages including, without limitation, full and actual attorney's fees (including, without limitation, attorney's fees for trial and on appeal), expert and non-expert witness fees, arbitrator and arbitration fees, court costs (statutory and non-statutory), and mediation and mediator fees.

**1.1.92 Modification.** "Modification" means a document, other than a Change Order or Construction Change Directive, approved and signed by County and Contractor after execution of the Construction Contract, agreeing to alter, amend or modify the Contract Documents.

**1.1.93 Mold.** "Mold" means mold, mildew, spores or other microorganisms of any type, nature or description, or any by-product thereof, the presence of which poses an actual or potential threat to human health, including, without limitation, any species of organisms of the kingdoms of fungi or mycota, including yeasts, smuts, rusts, mildews, mold and mushrooms, or any microbial contamination, either airborne or surface, which arises out of or is related to the presence of fungi or spores (including, without limitation, aspergillus, cladosporium, penicillium and stachybotrys chartarum).

**1.1.94 Non-Collusion Declaration.** "Non-Collusion Declaration" means the form, so titled, required by California Public Contract Code §7106 and the Bidding Documents to be submitted by Bidder with its Bid.



1.1.95 **Notice Inviting Bids.** "Notice Inviting Bids" means the notice issued by or on behalf of County inviting submission of Bids for the Project.

1.1.96 **Notice Inviting Prequalification Statements.** "Notice Inviting Prequalification Statements" means the formal notice issued by County inviting contractors to participate in County's process for Prequalification of Bidders.

1.1.97 **Notice of Change.** "Notice of Change" means a formal written notice required to be submitted by Contractor pursuant to Paragraph 7.6.1, below, notifying County of circumstances that Contractor believes may give rise to a Contract Adjustment.

1.1.98 **Notice of Completion.** "Notice of Completion" means a "notice of completion" as defined in California Civil Code §9204.

1.1.99 **Notice of Delay.** "Notice of Delay" means a formal written notice prepared and submitted by Contractor pursuant to Paragraph 8.2.2, below, notifying County of circumstances that Contractor believes may give rise to a Contract Adjustment to the Contract Time for Excusable Delay or Compensable Delay or a Contract Adjustment to the Contract Price for Compensable Delay.

1.1.100 **Notice of Final Completion.** "Notice of Final Completion" means the written notice by County confirming the date of actual Final Completion.

1.1.101 **Notice of Intent to Award.** "Notice of Intent to Award" means the written notice by or on behalf of County stating County's intent to Award the Construction Contract.

1.1.102 **Notice of Substantial Completion.** "Notice of Substantial Completion" means the written notice by County confirming the date of actual Substantial Completion.

1.1.103 **Notice to Proceed.** "Notice to Proceed" means the written notice issued by County to Contractor to begin the Work.

1.1.104 **Payment Bond, Performance Bond.** "Payment Bond" and "Performance Bond" mean the surety bonds required to be provided by Contractor pursuant to Article 12, below.

1.1.105 **Plans.** "Plans" means the graphic and pictorial portions of the Contract Documents prepared by Architect or its Subconsultants showing the design, location and dimensions of the Work, including, without limitation, plans, elevations, details, schedules and diagrams. The term "Plans" is used interchangeably with "Drawings".

1.1.106 **Post-Award Submittals.** "Post-Award Submittals" means the documents described in the Bidding Documents that the apparent successful Bidder is required to submit after opening of Bids as a condition of Award.

1.1.107 **Pre-Bid Conference.** "Pre-Bid Conference" means the conference, specified in the Notice Inviting Bids as either mandatory or optional, held prior to the Bid Closing Deadline for the purpose of, without limitation, introducing the Bidders to the Project, and which conference may, or may not, include a review of the Site.

1.1.108 **Prequalification.** "Prequalification" means a process for Prequalification of contractors for bidding that is conducted by County pursuant to California Public Contract Code §20101 or as otherwise permitted by Applicable Laws.

1.1.109 **Prequalification Documents.** "Prequalification Documents" means the collection of documents issued to and submitted by individuals or entities pursuant to a Prequalification conducted by County.

1.1.110 **Prequalified Bidder.** "Prequalified Bidder" means a contractor that is prequalified as part of a Prequalification conducted by County pursuant to Public Contract Code §20101.

1.1.111 **Product Data.** "Product Data" means illustrations, standard schedules, charts, instructional brochures, diagrams and other information furnished by Contractor to illustrate a material, product or system for the Work.

1.1.112 **Progress Payment.** "Progress Payment" means a monthly payment of a portion of the Contract Price prior to Final Completion based on Contractor's progressed performance of the Work.

1.1.113 **Project.** "Project" means the improvements comprising, or necessary or appurtenant to the use of, the work of improvements described generally in the Bidding Documents, of which the Work may be the entirety of such improvements or only a part.

1.1.114 **Project Documents.** "Project Documents" means all writings (hard copy and electronic) in the possession of Contractor at the Site or elsewhere that relate in any way to the Project or Work.

1.1.115 **Project Team.** "Project Team" means County, Architect, County Consultants, Contractor, the Subcontractors, the Separate Contractors, Inspectors of Record and other firms or individuals retained by County, or retained by others with County's approval, participating in the planning, programming, design, construction or inspection of the Work.

1.1.116 **Reasonable Order of Magnitude Estimate.** "Reasonable Order of Magnitude Estimate" means a general estimate prepared by Contractor, or jointly by Contractor and County, without the benefit of complete or definitive pricing by Subcontractors, of the projected additional cost and time associated with Contractor's performance of a particular item or items of Extra Work or Deleted Work described in a Construction Change Directive. Unless otherwise agreed to in writing between County and Contractor, a Reasonable Order of Magnitude Estimate does not constitute either an authorization or agreement by County to any Contract Adjustment or a guarantee or promise by Contractor with respect to the amount of any Contract Adjustment that may be associated with a Compensable Change or Deleted Work.

1.1.117 **Record Documents.** "Record Documents" means the collection of documents assembled and prepared by Contractor (including, without limitation, the Record Drawings and Specifications) showing the condition of the Work as actually built.

1.1.118 **Record Drawings, Record Specifications.** "Record Drawings" and "Record Specifications" mean the Drawings and Specifications marked by Contractor to show the condition, location and placement of the Work as actually built, including, without limitation, the locations of mechanical, electrical, plumbing or similar portions of the Work that are depicted diagrammatically in the Drawings.

1.1.119 **Reference Documents.** "Reference Documents" means reports, studies, surveys and other information provided by County for Contractor's review and consideration in preparing its Bid, including, without limitation, information describing the Site (including surface or subsurface conditions), Existing Improvements or Hazardous Substances at the Site.

1.1.120 **Request for Extension.** "Request for Extension" means a formal written request submitted by Contractor pursuant to Paragraph 8.2.3, below, setting forth the justification and support for Contractor's request for a Contract Adjustment to the Contract Time.

1.1.121 **Request for Information.** "Request for Information" means a written request by Contractor for clarification of what it perceives to be a discrepancy in the Contract Documents (including, without limitation, information in the Contract Documents constituting a Design Discrepancy or a variance between the information in the Bidding Documents or Contract Documents and conditions at the Site or in Existing Improvements).

1.1.122 **Safety Program.** "Safety Program" means the formal, written program prepared by Contractor setting forth detailed procedures and precautionary measures for protecting persons and property from injury or damage.

1.1.123 **Samples.** "Samples" means physical examples that, when approved by County and Architect, illustrate materials, equipment or workmanship by which the Work is to be evaluated and judged as part of the Submittal process.

1.1.124 **Schedule of Values.** "Schedule of Values" means a detailed, itemized breakdown of the Contract Price, which provides for an allocation of the dollar values to each of the various parts of the Work.

1.1.125 **Self-Performed Work.** "Self-Performed Work" means Work related to a Compensable Change or Deleted Work that is performed or to be performed by Contractor's own laborers who are employed by Contractor, rather than by the employees of a Subcontractor, using materials and equipment purchased by Contractor directly from a supplier or manufacturer.

1.1.126 **Separate Contractor.** "Separate Contractor" means a contractor, subcontractor, supplier or vendor under contract directly to County to provide services, materials, labor, equipment or other work to the Project.

1.1.127 **Shop Drawing.** "Shop Drawing" means a drawing, diagram, schedule and other data specially prepared for the Work by Contractor or a Subcontractor to illustrate some portion of the Work.

1.1.128 **Site.** "Site" means: (1) the parcel of land owned by County on which the Project is to be constructed and such additional parcels as may be purchased by County for such construction; (2) all areas adjacent to such parcels that may be used by Contractor or the Subcontractors for staging, storage, parking or temporary offices; and (3) all land areas, both private and public, adjacent to such parcels on which Work is required to be performed under the Contract Documents, Applicable Laws or permits relating to the Project.

1.1.129 **Specifications.** "Specifications" means the portion of the Contract Documents consisting of the written requirements for materials, equipment, standards and workmanship for the Work and performance of related services.

1.1.130 **Standard of Performance.** "Standard of Performance" means the general standard governing Contractor's performance of its obligations under the Construction Contract and General Conditions as set forth in Section 2.2 of the Construction Contract.

1.1.131 **State Water Resources Control Board.** "State Water Resources Control Board" means the State Water Resources Control Board of the State of California.

1.1.132 **Storm Water Permit.** "Storm Water Permit" means any applicable storm water, urban runoff or statewide general NPDES permit issued by the State of California or the United States pursuant to the provisions of the Clean Water Act (Title 33 U.S.C. §§1251 et seq.) and/or Porter Cologne Water Quality Control Act (California Water Code §§13000 et seq.) and including any related regulations issued by the State of California or the United States.

1.1.133 **Sub-Bidder.** "Sub-Bidder" means a person or entity that submits a bid to a Bidder for some portion of the Work that is to be performed by that person or entity acting as a first-Tier Subcontractor.

1.1.134 **Subcontractor.** "Subcontractor" means a person or entity that has a contract to perform a portion of the Work, including without limitation, subcontractors, sub-subcontractors, suppliers, equipment operators, manufacturers and vendors, of any and every Tier.

1.1.135 **Submittal.** "Submittal" means a Shop Drawing, Product Data, Sample, detailed design, exemplar, fabrication and installation drawing, list, graph, operating instruction or other document required to be submitted by Contractor under the Contract Documents.

1.1.136 **Submittal Schedule.** "Submittal Schedule" means the schedule prepared by Contractor showing the timing for submission and review of Submittals during construction.

1.1.137 **Substantial Completion, Substantially Complete.** "Substantial Completion" and "Substantially Complete" mean the point at which the following conditions have occurred with respect to the entire Work or a portion

of the Work designated by County in writing to be Substantially Completed prior to Substantial Completion of the entire Work:

.1 such Work is sufficiently and entirely complete in accordance with Contract Documents so that such Work can be fully enjoyed and beneficially occupied and utilized by County for its intended purpose (except for minor items which do not impair County's ability to so occupy and use such Work);

.2 all permits, approvals and certificates by Governmental Authorities, such as, but not necessarily limited to, a permanent or temporary certificate of occupancy required to occupy and use such Work have been issued free of any conditions that are the result of an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, a violation of an Applicable Law or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents; and

.3 all building systems included in such Work are operational as specified, all designated or required inspections and certifications by Governmental Authorities have been made and posted and instruction of County's personnel in the operation of the systems has been completed.

1.1.138 **Substantial Completion Punch List.** "Substantial Completion Punch List" means the list of items of Work to be completed or corrected by Contractor for Substantial Completion.

1.1.139 **Substitution.** "Substitution" means a material, product or item of material or equipment proposed by the Bidder or Contractor in place of that specified in the Bidding Documents or Contract Documents.

1.1.140 **Substitution Request Form.** "Substitution Request Form" means the form, so titled, that is included in the Bidding Documents for use by the Bidders when requesting a Substitution.

1.1.141 **Supplementary Conditions.** "Supplementary Conditions" means those portions of the Specifications that supplement, by addition, modification or deletion, a specific portion of the General Conditions.

1.1.142 **Surety.** "Surety" means Contractor's surety(ties) issuing the Bid Bond, Performance Bond or Payment Bond.

1.1.143 **Tier.** "Tier" means the contractual level of a Subcontractor with respect to Contractor. For example, a "first-tier" Subcontractor is under contract with Contractor. A sub-subcontractor under contract with a first-tier Subcontractor is in the "second tier," and so on. Use of the phrase "of every Tier", or similar phraseology, in the Contract Documents shall not be interpreted as implying that other provisions of the Contract Documents, where such phrase is not used, are intended to be limited in application to only the first Tier or to only certain other Tiers of Subcontractors.

1.1.144 **Time Impact Analysis.** "Time Impact Analysis" means a written report evaluating the impact of an Excusable or Compensable Delay, which shall include, at a minimum, the following: (1) a narrative description of the Delay and its impact on the critical path to achievement of a Substantial Completion or Final Completion of the Work or a portion of the Work designated by County within the Contract Time; (2) a Fragnet; (3) the number of Days of extension sought by Contractor as a Contract Adjustment to the Contract Time; (4) a computation of the Days of Compensable Delay multiplied times the liquidated damages payable to Contractor pursuant to Section 3.3 of the Construction Contract, if any, sought by Contractor; (5) a statement that Contractor has complied with the requirements of the General Conditions for written notice of Delays, along with the dates and copies of such notices; (6) the measures taken by Contractor and Subcontractors to prevent or minimize the Delay; and (7) Contractor's recommendations for reordering or re-sequencing the Work to avoid or minimize further Delay.

1.1.145 **Unexcused Delay.** "Unexcused Delay" means any Delay that is not a Compensable Delay or Excusable Delay or that constitutes a Compensable Delay or Excusable Delay for which Contractor is not entitled to a Contract Adjustment to the Contract Time, including, without limitation, the following: (1) Delay caused by an act or omission of Contractor or a Subcontractor, of any Tier, constituting negligence, willful misconduct, a violation of an Applicable Law or a failure by Contractor or any Subcontractor, of any Tier, to comply with the Contract Documents; (2) Delay for which Contractor has failed to provide a timely and complete Notice of Delay or Request for Extension;

or (3) Delay associated with any circumstances where the costs or risk associated with such circumstances are designated in the Contract Documents as being at Contractor's risk or Contractor's Own Expense.

1.1.146 **Unilateral Change Order.** "Unilateral Change Order" means a writing signed by County in accordance with Article 7, below, in which County unilaterally sets forth its Good Faith Determination of the undisputed portion of an otherwise disputed Contract Adjustment.

1.1.147 **Work.** "Work" means all labor, materials, equipment, services, permits, licenses, taxes and other things necessary for Contractor to perform its obligations under the Contract Documents, including, without limitation, any Changes requested by County, in accordance with the Contract Documents and all Applicable Laws. The Work may constitute the whole or a part of the Project.

1.1.148 **Worker's Compensation Certificate.** "Worker's Compensation Certificate" means the statement, completed by Bidder in the form included in the Instruction to Bidders, evidencing the Bidder's compliance with the worker's compensation insurance requirements of the Bidding Documents and Applicable Laws.

## 1.2 **CORRELATION, INTERPRETATION AND INTENT OF CONTRACT DOCUMENTS**

1.2.1 **Design Intent.** The intent of the Contract Documents is for Contractor to provide all items necessary to produce a work of improvement that is complete as a whole and that is, in all of its parts, suitable for use and occupancy for its intended purpose, including, without limitation, all equipment, casework, mechanical, electrical and similar devices of whatever nature, completely installed, hooked-up and made fully operational and functional.

1.2.2 **Complementary.** Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all. Any Work called for on the Drawings and not mentioned in the Specifications, or vice versa, shall be performed as though fully set forth in both.

1.2.3 **Technical Words.** Unless otherwise stated in the Contract Documents, technical words and abbreviations contained in the Contract Documents are used in accordance with commonly understood construction industry meanings and non-technical words and abbreviations are used in accordance with their commonly understood meanings.

1.2.4 **Trade Names.** It is not the intention of the Contract Documents to go into detailed descriptions of any materials or methods commonly known to the trade under a "trade name" or "trade term." The mere mention or notation of such "trade name" or "trade term" shall be considered a sufficient notice to the Contractor that it will be required to complete the Work so named with all its appurtenances according to first-class practices of the trade.

1.2.5 **Incidental Items.** The naming of any material or equipment shall mean furnishing and installing of same, including all incidental and accessory items thereto and labor therefor, in accordance with first-class practices of the trade involved, unless specifically noted otherwise.

1.2.6 **Drawing Dimensions.** Figured, derived or numerical dimensions on scale Drawings shall govern over Drawings without figured dimensions. The Drawings shall not be scaled to determine dimensions, and (except in the case of diagrammatic Drawings) dimensions shall be calculated from figures shown on the Drawings. Obvious discrepancies between scale and figured dimensions, not marked "not to scale," must be brought to the Architect's attention before proceeding with the Work affected by the discrepancy. Contractor shall carefully check and compare all portions of the Drawings and Specifications so as to correctly interpolate the intended dimensions for any portion of the Work that is not explicitly dimensioned in the Contract Documents.

1.2.7 **Drawings, Specifications.** In general, the Drawings will show dimensions, positions, and kind of construction and the Specifications will define materials, quality and standards. Work not particularly shown, detailed, marked or specified shall be the same as similar parts that are shown, detailed, marked or specified.

1.2.8 **Typical Work.** Work not particularly shown, detailed, marked or specified shall be the same as similar parts that are shown, detailed, marked or specified.



**1.2.9 Divisions of the Work.** All the Work mentioned or indicated in the Contract Documents shall be performed by Contractor as part of the Work unless specifically indicated in the Contract Documents to be done by others. The organization of the Specifications into divisions, sections and articles and the arrangement of the Drawings shall not control Contractor in dividing the Work among the Subcontractors or in establishing the extent of the Work to be performed by the Subcontractors.

**1.2.10 Applicable Laws.** Compliance with Applicable Laws shall be considered as a part of the Work.

**1.2.11 Interpretations of Laws.** In the event of a conflict between or among Applicable Laws governing performance of the Work, the more stringent shall govern. Contractor assumes, at Contractor's Own Expense, sole responsibility for, and the risk associated with, interpretations of Applicable Laws made by Contractor not predicated on written orders issued by Governmental Authorities that by their terms are applicable to the Project, including, without limitation, interpretations or assumptions made by Contractor based on decisions, orders or approvals (written or unwritten) issued by or on behalf of Governmental Authorities in connection with work on other projects or properties near or in the general vicinity of the Site.

**1.2.12 Modifiers.** The Contract Documents may omit modifying words such as "all" and "any," and articles such as "the" and "an." If a modifier or an article is not included in one statement and appears in another, it is not intended to affect the interpretation of either statement. The use of the word "including," when following any general statement, shall not be construed to limit such statement to specific items or matters set forth immediately following such word or to similar items or matters whether or not non-limiting language (such as "without limitation," "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement.

**1.2.13 Singular, Gender, Captions.** When appropriate to the context, the use of the singular number shall be deemed to include the plural and vice versa. Each gender shall be deemed to include any other gender, and each shall include corporation, partnership, trust or other legal entity whenever the context so requires. The captions and headings of the various subdivisions of the Contract Documents are intended only as a matter of reference and convenience and in no way define, limit, or prescribe the scope or intent of the Contract Documents or any subdivision thereof.

**1.2.14 Cross-References.** Any cross-references indicated between various paragraphs or other portions of the Specifications, Drawings or other Contract Documents are provided for the convenience of Contractor and shall not be deemed to be all-inclusive.

**1.2.15 Diagrammatic Design.** Drawings and diagrams for mechanical, plumbing, electrical, fire sprinkler, fire alarm and low voltage Work shall be considered as diagrammatic only and shall not be used for any structural guidance or physical layout. Because such Drawings are diagrammatic, Contractor shall be responsible to provide any and all numbers and lengths of fittings, wire, conduit, connections, attachments or similar materials or devices needed to complete the Work, without Contract Adjustment, whether or not they exceed the numbers of pieces or the lengths indicated by such Drawings. Contractor is solely responsible to carefully plan and coordinate in advance, by means of coordination drawings prepared by Contractor or a Subcontractor, the installation of any Work shown diagrammatically and shall do so in such a manner as to make maximum use of the space available and anticipate and avoid wherever possible conflict and interferences among such portions of the Work and with other portions of the Work, including structural members.

**1.2.16 Demolition.** Existing Improvements at the Site of which no specific description is made in the Contract Documents, but which could be reasonably assumed to interfere with the satisfactory completion of the Work, shall be removed and disposed of by Contractor without Contract Adjustment. If Contractor is unsure whether a specific Existing Improvement at the Site which is not specifically described in the Contract Documents should be removed and disposed of, Contractor shall promptly ask the County whether such Existing Improvement is to be removed or remain in place, and shall comply with any directive given in response.

**1.2.17 Omissions.** Items missing from the Contract Documents shall nevertheless be provided by the Contractor, without Contract Adjustment, to the extent reasonably inferable from the Contract Documents as being necessary to satisfy the Design Intent.

1.2.18 **Conflicts.** Notwithstanding the provisions of Paragraph 1.2.19, below, in the event of conflict between any of the Contract Documents, the provision placing a more stringent requirement or greater burden on the Contractor or requiring the greater quantity or higher quality material or workmanship shall prevail, unless otherwise directed by the County in writing.

1.2.19 **Order of Precedence.** Conflicts that cannot be resolved in accordance with the rules of interpretation set forth elsewhere in this Section 1.2, shall be interpreted in accordance with the following order of precedence (the first being the highest order of precedence):

.1 Applicable Laws (provided, however, and notwithstanding Subparagraph 1.2.19.10, below, where the Contract Documents or manufacturer's recommendations or specifications require standards higher than those of Applicable Laws, the Contract Documents or manufacturer's recommendations or specifications shall control);

.2 Change Orders, Unilateral Change Orders and Construction Change Directives;

.3 Addenda;

.4 Construction Contract;

.5 Supplementary Conditions;

.6 General Conditions;

.7 General Requirements;

.8 Specifications;

.9 Drawings, subject to the following: (1) large scale plans and details take precedence over small scale Drawings in all cases; (2) full scale Drawings have precedence over both large and small scale Drawings in all cases; (3) detailed Plans and/or Drawings shall have precedence over general Plans and/or Drawings; (4) architectural and structural Drawings take precedence over electrical and mechanical Drawings in regard to location and arrangement of fixtures, outlets, and equipment; and (5) electrical and mechanical Drawings take precedence in describing and specifying equipment and in describing the diagrammatic requirements;

.10 standard and reference specifications which include industry norms, such as, but not limited to, ANSI and ASTM; and

.11 Reference Documents.

1.2.20 **Conditions Precedent.** Wording used in the Contract Documents indicating that a right of the Contractor or an obligation of the County is subject to or conditioned upon the occurrence of a condition or event, whether or not such condition or event is within the control of Contractor, County or others and whether or not such condition or event is expressly stated to be a "condition precedent", shall be understood and interpreted to mean that the stated condition or event is a condition precedent to the existence, arising, performance and exercise of such right or obligation.

### 1.3 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

1.3.1 **Property of County.** Subject to the provisions of Paragraph 2.4.4, below, all Design Documents, Contract Documents and Project Documents that are prepared by Contractor or a Subcontractor, of any Tier, for use in connection with the Project, including any designs, building designs or other depictions underlying or shown in them, and the Intellectual Property Rights thereto, shall be deemed the sole and exclusive property of County and ownership thereof is irrevocably vested in County, whether the Project is executed or not.

1.3.2 **Assignment of Rights.** Contractor shall, without further consideration, obtain any and all Intellectual Property Rights in the Project Documents and Design Documents prepared by Contractor or any Subcontractor, of any Tier, for use in connection with the Project, including any designs, building designs or other depictions underlying or shown in them, free and clear of any liens or other encumbrances, claims or rights of third parties, transfer such rights, if necessary in writing, to County and cooperate with County in securing and registering such rights, such that County shall own all Intellectual Property Rights and any other tangible and/or intangible property rights associated therewith. Such transfer and assignment will be effective for the entire duration of the copyrights and include, but are not be limited to, all rights in related plans, specifications, documentation, derivative works and moral rights.

1.3.3 **Contractor's Warranty.** Contractor represents and warrants that the Project Documents and Design Documents prepared by Contractor or any Subcontractor for use on the Project, and the use of such Project Documents in the ordinary course, are free of any claim of infringement or any other violation of any Intellectual Property Right or other right of any third party.

1.3.4 **Non-Exclusive License.** Without derogation of County's rights under this Section 1.3, Contractor and Subcontractors, of every Tier, are granted a limited, non-exclusive license, revocable at will of County, to use and reproduce applicable portions of the Design Documents, Contract Documents and Project Documents as appropriate to and for use in the execution of the Work and for no other purpose.

1.3.5 **Reproduction.** Contractor shall do all reproduction and distribution of such reproducible prints of Contract Documents and Design Documents as are necessary for the complete pricing and performance of the Work, including, without limitation, all Changes. The costs of such reproduction shall be at Contractor's Own Expense.

1.3.6 **Delivery to County.** All Design Documents and Contract Documents (including originals and copies), and one (1) copy of all other Project Documents, in the possession of Contractor or Subcontractors shall be delivered to County upon the earlier of Final Completion of the Work or termination of the Construction Contract; provided, however, that Contractor shall have the right to retain one (1) copy of the Contract Documents and Submittals as a permanent record.

1.3.7 **Subcontractors.** Contractor shall take all necessary steps to ensure that a provision is included in all contracts with Subcontractors, of every Tier, who perform Work on the Project protecting and preserving County's rights as set forth in this Section 1.3.

## ARTICLE 2 COUNTY RIGHTS AND OBLIGATIONS

### 2.1 INFORMATION, APPROVALS AND SERVICES REQUIRED OF COUNTY

2.1.1 **Legal Descriptions.** County shall furnish, within a reasonable time after written request by Contractor, a legal description of the Site and information describing legal limitations affecting the Site that are recorded with applicable Governmental Authorities, such as, but not limited to, easements.

2.1.2 **Permits and Fees.** County shall secure and pay for only those permits and fees which are expressly stated to be the responsibility of County under the Contract Documents. County shall pay for all hook-up fees (not including "tap fees", which are the responsibility of Contractor pursuant to Paragraph 3.14.3, below) in order to establish a new account with a utility provider.

2.1.3 **County Approvals.** Information, approvals and decisions required of County or a County Consultant for which a County Review Period or County Review Date is included in the Construction Schedule that is approved by County shall be provided in accordance with the Construction Schedule. If a County Review Period or County Review Date is not set forth in the Construction Schedule approved by County, then such information, approvals and decisions shall be provided upon written request by Contractor without unreasonable Delay. Notwithstanding the foregoing, failure by County, Architect or a County Consultant to provide any information, approvals or decisions shall not be considered as a basis for Contract Adjustment to the Contract Time unless and until, and in calculating a Contract Adjustment any Delay or extension of the Contract Time resulting from a late-issuance of such information, approval or decision shall not commence until after: