

**MEMORANDUM
DEPARTMENT OF FACILITY SERVICES
COUNTY OF PLACER**

To: **BOARD OF SUPERVISORS**

Date: **SEPTEMBER 25, 2012**

From:  **JAMES DURFEE / JOEL SWIFT**

Subject: **PLACER COUNTY CHILDREN'S EMERGENCY SHELTER PHASE II
RECREATION & SECURITY UPGRADES, PROJECT NO. 4677**

ACTION REQUESTED / RECOMMENDATION:

1. Approve a Consultant Services Agreement with Glass Architects for architectural and engineering services for the Placer County Children's Emergency Shelter Phase II Recreation and Security Upgrades, Project No. 4677, located in North Auburn; and authorize the Chairman to execute the attached Agreement in an amount not-to-exceed \$82,500, funded by the Capital Projects Fund project account at no net County cost, for the periods of FY 2012-13 and FY 2013-14.

BACKGROUND: In 2008 the County received the first of two earmark grants for the Children's Emergency Shelter (CES) Phase II project from the Health Resources and Services Administration (HRSA), which originally included the construction of a Multi Purpose/Gym Building to be located on the CES campus. The first Notice of Grant Award (NGA) was issued on August 26, 2008 in the amount of \$379,355. A second NGA was issued on September 9, 2009 in the amount of \$141,570. HRSA issued a third NGA, combining the awards for a total award of \$520,925. When the project did not receive any additional funding to pursue the original project, HRSA suggested to the County that a "Revised Scope" would allow the County to utilize the existing Grant funds rather than return them to HRSA.

Capital Improvements staff has worked with Children's System of Care to create a revised project scope to utilize the available Grant Funds. The CES Phase II project was revised to 'Recreation and Security Upgrades' consisting of four shade structures, two screen walls, ten new security cameras and a new HDVR, as well new exterior lighting at the basketball court. The largest shade structure will have the same foot print as the original Multi-Purpose/Gym Building, which will allow the County to pursue the complete project at a future date, when additional funding is available. Capital improvements also issued a "No Cost Extension" request to HRSA which would allow the County until August 31, 2013 to expend the Grant funds.

Capital Improvements staff requested proposals from four firms on the County's Architectural Consulting Services Qualified List. Glass Architects of Nevada City submitted the successful proposal. In order to proceed, it is requested that your Board approve the attached Agreement with Glass Architects, in an amount not-to-exceed \$82,500.

ENVIRONMENTAL CLEARANCE: On January 20, 2004, your Board certified an EIR for the DeWitt Government Center Facility Plan that considered the impacts of the Children's Shelter at a program level. On March 16, 2006, the County Zoning Administrator approved a Mitigated Negative Declaration (SCH#2006012112) and a Minor Use Permit for the project. No additional environmental documentation is required.

FISCAL IMPACT: The estimated total project cost for the Placer County Children's Emergency Shelter Phase II Recreation and Security Upgrades is \$786,606, including \$440,000 in construction and \$82,500 in architectural and engineering and \$264,106 in project management, permits, fees, force account, bidding and contingencies. Staff will return to your Board for approval of Plans and Specifications, with a revised estimate based on the detailed design. Of this estimated cost, \$265,681 is a budgeted County cost and the balance provided through HRSA funding (no net County cost).

ATTACHMENT: CONSULTANT SERVICES AGREEMENT WITH GLASS ARCHITECTS

JD:JS:RU:HKB:SH

CC: COUNTY EXECUTIVE OFFICE
PROCUREMENT SERVICES

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Contract No.: _____

Administering Agency: County of Placer/Facilities Services/Capital Improvement Division

Contract Description: Placer County Children's Emergency Shelter Recreation and Security upgrades -- Project # 4677

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made at Auburn, California, as of _____, by and between the County of Placer, a political subdivision of the State of California ("County"), and Glass Architects ("Consultant") a Sole Proprietor, who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the services as described in Exhibit A in the manner therein specified.
2. **Payment.** County shall pay Consultant for services rendered pursuant to this Agreement at the time and in the amounts set forth in Exhibit B. Consultant shall submit all billings for said services to County in the manner specified in Exhibit B. The total amount payable for all services provided under this Agreement, including Additional Services, shall not exceed **Eighty Two Thousand Five Hundred and no/100 (\$82,500.00)** without the prior written approval of County.
3. **Facilities, Equipment and Other Materials, and Obligations of County.** Except as set forth in Exhibit C, Consultant shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement. County shall furnish Consultant only those facilities, equipment, and other materials, if any, and shall perform those obligations, if any, listed in Exhibit C according to the terms and conditions set forth in Exhibit C.
4. **General Provisions.** The general provisions set forth in Exhibit D are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other term or condition insofar as it is inconsistent with the general provisions.
5. **Exhibits.** All exhibits referred to herein are attached hereto and by this reference incorporated herein.
6. **Time for Performance.** Time is of the essence, and, subject to County's compliance with Exhibit C and to the provisions of paragraph 3 of Exhibit D, failure of Consultant to perform any services within the time limits set forth in Exhibit A, if any, shall constitute material breach of this contract.
7. **Notices.** Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, confirmed fax or reliable overnight mail to the address of the respective parties set forth below:

COUNTY: Placer County Department of Facility Services
Attn: Hope Bostic, Architect
Capital Improvements
11476 "C" Avenue
Auburn, CA 95603
Phone: 530-886-4928
Fax: 530-889-6863

CONSULTANT: Glass Architects
Attn: Eric Glass
200 E Street
Santa Rosa, CA 95404
Phone: 707-544-3920
Fax: 707-544-2514

REMIT TO CONSULTANT:
Glass Architects
Attn: Julianne Koch
200 E Street
Santa Rosa, CA 95404
Phone: 707-544-3920
Fax: 707-544-2514

County or Consultant may from time to time designate any other address for this purpose by written notice to the other party.

Executed as of the day first above stated:

COUNTY OF PLACER

By: _____
Chair, Board of Supervisors

Date: _____

Glass Architects, CONSULTANT

By: _____
Eric Glass, Architect
Sole Proprietor

Date: _____

Approved as to Form

Approved as to Funds

By: _____
Placer County Counsel

By: _____
Placer County Auditor

- Exhibit A: Scope of Services
- Exhibit B: Payment for Services Rendered
- Exhibit B-1: 2012 Fee Schedule
- Exhibit C: Facilities, Equipment, and Other Materials and Obligations of County
- Exhibit D: General Provisions
- Exhibit E: Confidential Accounting Information

EXHIBIT A

SCOPE OF SERVICES

The scope of services shall consist of providing Architectural and Engineering services for Placer County Children's Emergency Shelter (CES) Recreation and Security upgrades – Project # 4677. CES is located on the Placer County Government Center. The Placer County Children's Emergency Shelter Recreation and Security upgrades consist of the following Improvements:

- Exterior site lighting and controls at the existing basketball court and new turf areas, screening structures and shade structures.
- Surveillance system expansion with one new internal camera and nine exterior cameras. In addition the DVR headend equipment will be expanded to serve new cameras.
- New open-air metal building structure (roof / no walls) over the new artificial turf area. Metal building structure to be approximately 60' x 72' and includes lighting and power.
- New shade structures at the existing playground.
- New shade trellis between two wings of the existing facility.
- New outdoor screen walls as a visual screen between the boys & girls teen wings and as a visual screen next to the playground.
- New artificial turf on the existing pre-graded pad.

The project will be competitively bid and the design will include bid alternatives to maximize the available budget.

Scope of Services:

1) Design Development

Based on an overall as-built site plan provided by the County and any necessary supplemental topographic or geotechnical information, also provided by the County, this phase begins to develop more detail including expanded architectural design features, structural and electrical systems. This phase will include one or more in-progress meetings with the Building Committee as more detailed information is developed and questions arise.

Deliverables

Design Development drawings will be produced in AutoCAD 2009. This phase will result in the following drawings and work products:

- Site Plan
- Preliminary Open-air Metal Building Floor Plan
- Preliminary Open-air Metal Building Elevations
- Preliminary Site Electrical Plan
- Preliminary Civil Drawings and Details (as applicable)
- Preliminary Structural Drawings and Analysis
- Preliminary Specifications
- Preliminary Cost Estimate

2) Construction Documents

Based on approved Design Development documents, detailed drawings and specifications will be developed which are suitable for public bidding and construction. Consultant will coordinate with a metal building manufacturer in order to provide the structural foundation design based on the loads and reactions provided by the metal building manufacturer. Following preparation of these documents and final cost estimate, a presentation will be made to the Building Committee for approval and authorization to proceed with construction.

Deliverables

This phase will result in complete Construction Documents, produced in AutoCAD 2009 for all work that is a part of this project, including:

- Architectural Drawings
- Civil Drawings (as applicable)
- Structural Drawings
- Electrical Drawings
- Technical Specifications
- Structural and Energy Calculations (as applicable)
- Final Cost Estimate
- Submittal to Building Department
- Plan Check Correction and Re-submittal for Building Permit, as required

3) Bidding

During the Bidding phase, Consultant will provide assistance with, clarifying questions and assisting the County with issuing addenda as required. Consultant will attend a pre-bid conference and the bid opening, if requested. Consultant will assist in the review of bids received and provide recommendations regarding award of the contract to the successful bidder.

4) Construction Administration

During the Construction phase, Consultant will perform the following services including coordination and management of communication between Owner, and Consultants. Services during this phase of the project also include performing periodic site visits to observe construction and attend job site meetings, answering 'request for information' (RFI's), processing shop drawings, and submittals, evaluating cost estimates for change order requests, issuing clarifications and assisting the County in processing change orders, reviewing contractor's monthly progress payment requests and preparing a final punch list and As-Build Record Drawings produced in AutoCAD 2009.

Clarifications:

- Reproduction cost for bidding purposes is not included in this contract.
- Permit fees, special inspection and testing cost are not included in this contract.
- The County will submit all permit applications, and pay for associated fees. The Consultant will provide the Building Department Submittal and plan check corrections as noted above in item 2.
- The County will handle all hazardous material abatement investigation and documentation if any.

Said Scope of Work may be amended only with the prior written approval of the Consultant and the Placer County Director of Facility Services however, in no event shall such amendment create any additional liability to the County.

In addition to the services described above, County may request Additional Services on an as needed basis subject to the County's approval of a written scope of work and approval of a cost proposal. In no event shall said Additional Services exceed the cost allocated in Exhibit B. Work on any Additional Services may not proceed until authorized in writing by the Placer County Director of Facility Services. Any approved Additional Services and costs shall be appended to this Agreement and such work shall be subject to all of the provisions of this Agreement.

Time: Consultant agrees to complete all work according to the schedule below:

PROJECT SCHEDULE:

Design Development Drawings:	October 2012
Construction Documents:	November- December 2012
Bid /Advertising:	January 2013
Selection of Success full bidder: (Bid opening date)	February 2013
Contract Award:	March 2013
Construction Start:	March 2013
Construction Completion:	July 2013
Occupancy:	July 2013

**EXHIBIT B
PAYMENT FOR SERVICES RENDERED**

Consultant shall be paid by County monthly as work progresses, not to exceed the amount below for the identified tasks.

Consultant shall submit invoices monthly for work performed. Provided the work has been satisfactorily performed, County shall pay invoices within thirty (30) days after approval of the invoice. Consultant shall provide such additional information as the County may request to verify any of the amounts claimed for payment in any invoice.

The invoices shall also include a spreadsheet that shows task budgets, charges by task for the current invoice, cumulative charges to date by task, and percent of budget remaining by task

The total amount payable for each task shall not exceed the amount set forth below; provided, however, upon written request of the Consultant and with written approval of the Placer County Director of Facility Services, the County may adjust the amount to be paid for any task if the County deems it necessary and appropriate. However, the total amount payable for all services provided under this Agreement, including additional services, shall not exceed Eighty Two Thousand, Five Hundred Dollars and no/100 Dollars (\$82,500.00).

TASK:	COST
1. Design Development Phase (Arch., Elect, SCL)	\$ 19,292.00
2. Construction Documentation Phase (Arch., Elect, SCL)	\$ 34,224.00
3. Bid Phase (Arch., Elect, SCL)	\$ 3,429.00
4. Construction Administration Phase (Arch., Elect, SCL)	\$ 13,387.00
5. Reimbursable for all phases (Mileage, prints, etc.)	\$ 2,500.00
6. Topographic Survey (if needed)	\$ 2,168.00
<u>7. Additional Services</u>	<u>\$ 7,500.00</u>
Total Basic Fee:	\$ 82,500.00

This contract allows for additional work as necessary on the prior written approval from the Placer County Director of Facility Services in the maximum amount of \$7,500.

Exhibit B-1

2012 FEE SCHEDULE*

GLASS ARCHITECTS

Prime Architect

Principal-in-Charge	\$175.00/hr.
Project Manager	\$145.00/hr.
Design Architect	\$135.00/hr.
Project Architect	\$115.00/hr.
CADD Technician	\$95.00/hr.
Clerical	\$60.00/hr.

THE ENGINEERING ENTERPRISE (TEE)

Electrical Engineer

Principal	\$210.00/hr.
Associate	\$190.00/hr.
Engineer / Project Manager	\$160.00/hr.
Lighting Designer	\$145.00/hr.
Designer	\$130.00/hr.
CAD Operator	\$105.00/hr.
Project Coordinator	\$100.00/hr.

SIEGFRIED ENGINEERING

Structural / Civil Engineer & Landscape Architect

Principal	\$195.00/hr.
Senior Associate	\$177.00/hr.
Associate	\$160.00/hr.
Senior Engineer / Surveyor	\$160.00/hr.
Landscape Architect	\$140.00/hr.
Engineer / Surveyor II	\$128.00/hr.
Landscape Designer II	\$112.00/hr.
Engineer / Surveyor I	\$112.00/hr.
Senior Technician	\$112.00/hr.
Landscape Designer I	\$80.00/hr.
Engineering Tech III	\$97.00/hr.
Engineering Tech II	\$86.00/hr.
Engineering Tech I	\$72.00/hr.
One-man Survey Crew	\$150.00/hr.

* Hourly rates are effective as of January 1, 2012 and subject to change on January 1st of each year.

Reimbursable Expenses

Reimbursable expenses are in addition to the proposed professional fees noted above and include costs of reproduction, mailing and shipping, long distance and cellular telephone calls, travel expenses in connection with the project, and facsimile transmissions. Reimbursable expenses are billed at one point one-five (1.15) times direct expense. Facsimile transmissions are one dollar (\$1.00) per page, photocopies are ten cents (\$0.10) per page and plots of drawing files are twenty-five dollars (\$25.00) per sheet. Expense of transportation in connection with the project is billed at fifty-five cents (\$0.55) per mile for personal automobile use, or one point one-five (1.15) times direct cost of other transportation. Additional services, when requested or authorized by the client, are billed on an hourly basis for in-house staff in accordance with the rate schedule below; additional services of consultants are billed at one point one-five (1.15) times direct expense.

EXHIBIT C

FACILITIES, EQUIPMENT, AND OTHER MATERIALS, AND OBLIGATIONS OF COUNTY

To permit the Consultant to render the services required herein, the County shall, at its expense and in a timely manner provide the following facilities, equipment, services or other materials:

1. Appoint a staff member to act as Project Manager.
2. Information:
Documents:
 - All Construction and Record Documents in .pdf or AutoCAD format from the CES Project completed in 2008.
 - Existing infrastructure information as is available.
 - County will provide the Division one project information for the Project Manuals.
3. County shall promptly review any and all documents and materials submitted by the Consultant.

All other information, facilities, and equipment required to complete the services described Exhibit A of this Agreement shall be provided by the Consultant.

**EXHIBIT D
GENERAL PROVISIONS**

1. **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of the County. All persons performing services for the Consultant under this Contract shall be employees of the Consultant and not the County.

2. **Licenses, Permits.** Consultant represents and warrants to County that it has all licenses, permits, qualifications, and approvals of whatsoever nature, which are legally required for Consultant to practice its profession and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for Consultant to practice its profession at the time the services are performed.

3. **Time.** Consultant shall devote such attention to the performance of services pursuant to this Agreement as may be necessary for the satisfactory and timely performance of Consultant's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

4. **Hold Harmless and indemnification Agreement**

The CONSULTANT hereby agrees to protect, defend, indemnify, and hold PLACER COUNTY free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PLACER COUNTY arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of PLACER COUNTY) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of this contract or agreement to the extent that the above arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct (all whether by act, error and/or omission) of the CONSULTANT. CONSULTANT'S obligation shall include the duty to defend PLACER COUNTY as set forth in California Civil Code Sections 2778 and 2782.8. This provision is not intended to create any cause of action in favor of any third party against CONSULTANT or PLACER COUNTY or to enlarge in any way the CONSULTANT'S liability but is intended solely to provide for indemnification of PLACER COUNTY from liability for damages or injuries to third persons or property arising from CONSULTANT'S performance pursuant to this contract or agreement.

As used above, the term PLACER COUNTY means the County of Placer, its officers, agents, employees, and volunteers.

5. **Insurance:**

CONSULTANT shall file with COUNTY concurrently herewith a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A-VII showing.

6. **Worker's Compensation and Employers Liability Insurance:**

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to CONSULTANT'S employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the CONSULTANT.

CONSULTANT shall require all SUBCONTRACTORS to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

General Liability Insurance:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of CONSULTANT, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(1) Contractual liability insuring the obligations assumed by CONSULTANT in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

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C. If CONSULTANT carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

→One million dollars (\$1,000,000) each occurrence

→Two million dollars (\$2,000,000) aggregate

D. If CONSULTANT carries a Commercial General Liability (Occurrence) policy:

(1) The limits of liability shall not be less than:

→One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

→One million dollars (\$1,000,000) for Products-Completed Operations

→Two million dollars (\$2,000,000) General Aggregate

(2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

CONSULTANT shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:

(1) The limits of liability shall not be less than:

→One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

→One million dollars (\$1,000,000) aggregate for Products Completed Operations

→Two million dollars (\$2,000,000) General Aggregate

(2) The insurance coverage provided by CONSULTANT shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.

Endorsements:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided by the Consultant, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
- C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

Automobile Liability Insurance:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

Professional Liability Insurance (Errors & Omissions):

Professional Liability Insurance for Errors and Omissions coverage in the amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence and two million dollars (\$2,000,000) aggregate.

If Consultant sub-contracts in support of Consultants work provided for in the agreement, Professional Liability Insurance for Errors shall be provided by the sub contractor in an amount not less than one million dollars (\$1,000,000) in aggregate.

The insurance coverage provided by the consultant shall contain language providing coverage up to one (1) year following completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims made policy.

Additional Requirements:

Premium Payments - The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The CONSULTANT shall be responsible for all deductibles in all of the CONSULTANT's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

CONSULTANT's Obligations - CONSULTANT's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - CONSULTANT shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the CONSULTANT to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

7. **Consultant Not Agent.** Except as County may specify in writing Consultant shall have no authority, express or implied, to act on behalf of County in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind County to any obligation whatsoever.

8. **Assignment/ Subcontracting Prohibited.** Consultant may assign its rights and obligations under this Agreement only upon the prior written approval of County, said approval to be in the sole discretion of County. Consultant shall not subcontract any portion of the work except as approved in advance and in writing by County or as set forth in Exhibit A, Scope of Services.

9. **Personnel.**

A. Consultant warrants that all personnel assigned by Consultant to perform the services are duly trained and qualified to perform the work. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that County, in its sole discretion, at any time during the term of this Agreement, request the replacement of any person assigned by Consultant to perform services pursuant to this Agreement, Consultant shall remove and replace any such person immediately upon receiving notice from County.

B. Notwithstanding the foregoing, if specific persons are designated as part of a project team in Exhibit A, Scope of Services, Consultant agrees to perform the work under this agreement with those individuals identified. Reassignment or substitution of individuals or sub-consultants named in the project team by Consultant without the prior written consent of County shall be grounds for cancellation of the agreement by County, and payment shall be made pursuant to Paragraph 10 Termination only for that work performed by project team members.

10. **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in

which Consultant practices its profession. All products of whatsoever nature which Consultant delivers to County pursuant to this Agreement shall be prepared in a workmanlike manner and conform to the standards or quality normally observed by a person practicing in Consultant's profession.

11. Termination.

- A. In the event County, in its sole discretion, deems it in the best interests of the public, County shall have the right to terminate this Agreement at any time without cause by giving notice in writing of such termination to Consultant. In the event County shall give notice of termination, Consultant shall immediately cease rendering service upon receipt of such written notice, pursuant to this Agreement. In the event County shall terminate this Agreement:
- 1) Consultant shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.
 - 2) County shall have full ownership and control of all such writings delivered by Consultant pursuant to this Agreement.
 - 3) County shall pay Consultant the reasonable value of services rendered by Consultant to the date of termination pursuant to this Agreement not to exceed the amount documented by Consultant and approved by County as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed the amount of the agreement specified in Exhibit B, and further provided, however, County shall not in any manner be liable for lost profits which might have been made by Consultant had Consultant completed the services required by this Agreement. In this regard, Consultant shall furnish to County such financial information as in the judgment of the County is necessary to determine the reasonable value of the services rendered by Consultant. The foregoing is cumulative and does not affect any right or remedy that County may have in law or equity.
- B. Consultant may terminate its services under this Agreement only upon good cause or upon the mutual agreement of the County, and shall provide thirty (30) working days advance written notice to the County of any such intent to terminate.

12. Non-Discrimination. Consultant shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex in contravention of the California Fair Employment and Housing Act, Government Code §12900 et seq.

13. Records. Consultant shall maintain, at all times, complete detailed records with regard to work performed under this agreement in a form acceptable to County, and County shall have the right to inspect such records at any reasonable time. Notwithstanding any

other terms of this agreement, no payments shall be made to Consultant until County is satisfied that work of such value has been rendered pursuant to this agreement. However, County shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.

14. Ownership of Information. All professional and technical information developed under this Agreement and all worksheets, reports, and related data shall become the property of County, and Consultant agrees to deliver reproducible copies of such documents to County on completion of the services hereunder. The County agrees to indemnify and hold Consultant harmless from any claim arising out of reuse of the information for other than this project.

15. Waiver. One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this Agreement shall not operate as a waiver of any subsequent breach or default by the other party.

16. Conflict of Interest. Consultant certifies that no official or employee of the County, nor any business entity in which an official of the County has, an interest, has been employed or retained to solicit or aid in the procuring of this agreement. In addition, Consultant agrees that no such person will be employed in the performance of this agreement without immediately notifying the County.

17. Entirety of Agreement. This Agreement contains the entire agreement of County and Consultant with respect to the subject matter hereof, and no other agreement, statement, or promise made by any party, or to any employee, officer or agent of any party, which is not contained in this Agreement, shall be binding or valid.

18. Governing Law. This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings on this agreement shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California. Each party waives any Federal court removal and/or original jurisdiction rights it may have.

19. General Compliance With Laws. The Consultant shall exercise usual and customary care to comply with applicable Federal, State and local laws, statutes, rules, orders and regulations which are in effect as of the date of this Agreement, or which may later be enacted. Consultant shall comply with all laws regarding payment of prevailing wage, including, without limitation, California Labor Code section 1720, as such laws may be amended or modified. Consultant agrees to comply with any directives or regulations issued by the California State Department of Industrial Relations or any other regulatory body of competent jurisdiction.

20. Construction and Interpretation. It is agreed and acknowledged by Consultant that the provisions of this Agreement have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to review the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

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