

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

To: **BOARD OF SUPERVISORS**

Date: **MAY 12, 2009**

From: *JD* **JAMES DURFEE / JOEL SWIFT** *JS*

Subject: **ARCHITECTURAL AND ENGINEERING SERVICES FOR THE PLACER
COUNTY DRY CREEK FIRE STATION APPARATUS BAY ADDITION,
PROJECT NO. 4817**

ACTION REQUESTED / RECOMMENDATION: Approve the attached Consultant Services Agreement with Madsen, Flathmann, Dameron & Babcock Architects, Inc. (MFDB) to provide architectural and engineering services for the Dry Creek Fire Station Apparatus Bay Addition, Project No. 4817, located on Cook Riolo Road in Roseville and authorize the Chairman to execute the attached Agreement in an amount not-to-exceed \$111,000.

BACKGROUND: Since the mid 1980's the Dry Creek Fire Station has occupied a 4,080 square foot building located on Cook Riolo Road in Roseville. With the growth of the Roseville area and the increase demand to provide emergency services in this area, there is a need to add an additional apparatus bay. Staff solicited proposals from three pre-qualified architectural firms, and based on the firm's understanding of the scope of work, MFDB was selected to prepare the design for the Dry Creek Fire Station Apparatus Bay Addition.

The work at this fire station will consist of, but is not necessarily limited to: site preparations for new apparatus bay, approximately 2,000 lineal feet of public waterline from Vineyard Road to supply water for a new fire sprinkler system, new fire alarm system, paving and a vehicle exhaust system.

In order to proceed with the Dry Creek Fire Station Apparatus Bay Addition Project, it is necessary for your Board to approve the attached Agreement with MFDB, in an amount not-to-exceed \$111,000.

ENVIRONMENTAL CLEARANCE: This project is exempt from the California Environmental Quality Act pursuant to Section 15301(e)(1) – that provides for additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area before the addition; and 15304 Minor Alterations to Land.

FISCAL IMPACT: The estimated cost for architectural and engineering services for the Dry Creek Fire Station Apparatus Bay Addition is \$111,000. There are sufficient funds appropriated in the Capital Projects Fund project account for these services. Staff will return to your Board, prior to bid, with the estimate of probable construction cost.

ATTACHMENT: MFDB AGREEMENT – DRY CREEK FIRE STATION APPARATUS BAY ADDITION

JD:JS:RU:LJ:SR

CC: COUNTY EXECUTIVE OFFICE
PROCUREMENT SERVICES
EMERGENCY SERVICES

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Contract No.: _____

Administering Agency: County of Placer/Facility Services/Capital Improvements

Contract Description: Dry Creek Fire Station Apparatus Bay Addition – Cook Riolo Road

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 **Madsen, Flathmann, Dameron & Babcock Architects, Inc.** ("Consultant") a California corporation, 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 **One Hundred Eleven Thousand and no/100 Dollars (\$111,000.00)** 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:

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COUNTY: Placer County Department of Facility Services
Attn: Lisa James, Project Manager
Capital Improvements
11476 "C" Avenue
Auburn, CA 95603
Phone: (530)889-6838
Fax (530) 889-6863

CONSULTANT: Madsen, Flathmann, Dameron & Babcock Architects, Inc.
Attn: Daniel Dameron
111 Scripps Drive
Sacramento, CA 95825
Phone: (916) 972-0131
Fax: (916) 481-1845

REMIT TO CONSULTANT:
Madsen, Flathmann, Dameron & Babcock Architects, Inc.
Attn: Daniel Dameron
111 Scripps Drive
Sacramento, CA 95825
Phone: (916) 972-0131
Fax: (916) 481-1845

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

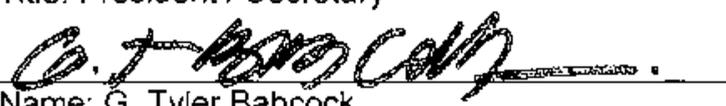
Executed as of the day first above stated:

COUNTY OF PLACER

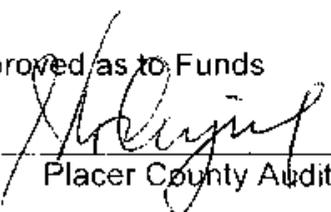
By: _____ Date: _____
Name: Chairman,
Title: Board of Supervisors

Madsen, Flathmann, Dameron & Babcock Architects, Inc., CONSULTANT

By:  _____ Date: 4/6/2009
Name: Daniel Dameron
Title: President / Secretary

By:  _____ Date: 4.6.09
Name: G. Tyler Babcock
Title: Vice President / Treasurer

Approved as to Form
By:  _____
Placer County Counsel

Approved as to Funds
By:  _____
Placer County Auditor

- Attachment A: Scope of Services
- Attachment B: Payment for Services Rendered
- Attachment C: Facilities, Equipment, and Other Materials and Obligations of County
- Attachment D: General Provisions

EXHIBIT A

SCOPE OF SERVICES

The scope of services shall consist of providing Architectural and engineering services required for the Dry Creek Fire Station Apparatus Bay Addition, consisting of the following scope of services and deliverables:

Scope of Services

This project consists of the addition of one apparatus bay (approx. 18' x 60') to the existing County fire station at 8350 Cook Riolo Road in Roseville. Project scope will also include the addition of fire sprinklers and fire alarm pull stations and horn/strobes throughout the building, ADA upgrades to one restroom in the existing building and related path of travel accommodations, upsizing of the existing main power panel and seal-coating of the existing asphalt paving around the station. The new fire sprinkler system will be supplied by the extension of the waterline down to Vineyard Road. The addition is intended to blend with the existing architecture of the building. This proposal is based on the County's scope letter dated December 11, 2008.

1. PROGRAMMING/DESIGN DEVELOPMENT

- a. Attend project kick-off meeting with County project manager, and Fire Department representatives to review the design program and other required functional repairs and improvements for the project. Prioritize strategies for maintaining functionality during construction. Prepare summary programming document.
- b. Review all as-built data furnished by County. Field verify additional architectural, structural, plumbing, mechanical and electrical conditions pertinent to scope of the addition and renovation work proposed.
- c. Prepare as-built AutoCad floor plan and site plan for use by A/E team.
- d. Prepare concept floor plan and review with Project Manager and Fire Department. Revise as required to achieve mutually agreeable scheme.
- e. Prepare proposed exterior elevations and proposed site plan, prioritizing an appropriate blending into the existing architecture.
- f. Prepare code analysis based on 2007 CBC for proposed addition/renovation plan. In cooperation with Facilities Services, confirm code assumptions/direction with Building Official, Fire Marshal, Public Works and Planning.
- g. Further develop architectural drawings to include door/window/finish schedules, reflected ceiling plans and interior elevations to reach a design development level.
- h. Civil engineer to prepare drawings for extension of new fire service water line down to Vineyard Road to connect to a permanent public water source, and street improvements along the fire station frontage, which include a tapered driveway (per DPW Plate R-17) and culvert extension as required by Public Works.
- i. Structural engineer to make preliminary calculations and block out structural approach to addition.

- j. Mechanical engineer to prepare diagrammatic plans encompassing building plumbing, HVAC and new fire sprinkler riser systems. Include POC for new fire sprinklers supply line.
- k. Electrical engineer to prepare diagrammatic power, signal and lighting plans.
- l. Prepare two interior design color boards.
- m. Prepare outline specifications.
- n. Prepare opinion of probable construction cost based on design development drawings and outline spec.
- o. Submit 4 sets of finalized design development drawings, outline spec, color boards and cost estimate. Cost of printing and delivery included.
- p. When directed by County Project Manager, prepare and submit "Minor Use Permit" Submittal to Planning Department.

2. CONSTRUCTION DOCUMENTS

- a. Attend Construction Document kick-off meeting with County if needed and receive County comments on DD set.
- b. Prepare complete construction drawings and specifications including architectural, structural, mechanical, plumbing and electrical.
- c. Coordinate with County's General Conditions and Division 1 requirements.
- d. Prepare structural calculations and Title 24 energy compliance documentation required for plan check.
- e. Submit two sets of 65% interim construction document package for over the shoulder review by Facilities Services.
- f. Submit "final" cost estimate at 95% CD completion.
- g. Submit 4 sets of 95% complete construction documents to Facilities Services. Attend 95% CD review meeting if required. Incorporate County comments into 100% CD package. Submit 4 sets of 100% complete construction documents plus a CD to Facilities Services. Cost of printing and delivery included.
- h. Assist County Project Manager in shepherding documents through plan check. Respond to plan check comments as required.

3. BIDDING

- a. Bidding will be administered by the County.
- b. Attend Pre-Bid Walk.
- c. Assist County in answering bidder questions and preparing text and/or graphics for County issued addenda.
- d. Attendance at Bid Opening not required.

4. CONSTRUCTION ADMINISTRATION

- a. Architect will attend Pre-Construction Conference. Prepare minutes.
- b. County will take lead on construction administration.
- c. Assist County Project Manager in answering RFI's and reviewing submittals on an as needed basis.
- d. Assist County in preparing change orders.
- e. Assist County in review of Contractor Pay Applications if desired.
- f. Provide the following site visits:
 - Architect: 5 visits (in addition to PreCon. Conf.)
 - Structural: 2 visits

- Mechanical: 2 visits
- Electrical: 2 visits
- g. Incorporate Contractor redlines into electronic drawings for final Record Set. Submit one set plus a CD to County. Cost of printing and delivery included.
- h. Furnish final floor plan and gross/net/rentable area calculations per County Building Measuring Guidelines.

5. ASSUMPTIONS/EXCLUSIONS

- a. Hazardous materials surveys and abatement drawings and specifications will be furnished by County.
- b. County will provide a geotechnical report.
- c. County will provide front end and Division 1 specifications.
- d. County will provide move coordination.
- e. Assume fire sprinkler design will include performance criteria only. Final fire sprinkler calculations and construction documents will be by design/build subcontractor.
- f. Assume there is adequate capacity in existing liquid propane gas system for new heaters.
- g. Assume there is adequate capacity in existing septic system for additional drains.
- h. Excludes Landscape Design services.
- i. Excludes life cycle cost analyses, energy effectiveness studies and preparation of maintenance or operating manuals.
- j. Excludes LEED related services although Madsen, Flathmann, Dameron & Babcock Architects, Inc. will always incorporate sustainable design goals into its work.
- k. Excludes design of alarm/alerting system, building management system, voice/data equipment, telecommunication cabling system, security system, television distribution system or audiovisual system.
- l. Assume the existing emergency power system requires no changes related to upgrading the size of the existing power panel or the addition of the fire sprinklers.
- m. Additional printing and deliveries requested by the County above and beyond those listed under basic services will be billed as an additional cost, on a cost + 15% basis. We will not charge for mileage. All drawing printing noted in the base proposal is assumed to be OCE on bond. Shipping of construction submittals is assumed to be by regular mail (requests for overnight delivery will be billed as an additional cost).

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.

Consultant agrees to complete all work according to the following schedule:

May 2009:	A/E starts work. Programming/As-Builts/Preliminary Design kick-off meeting
June 2009	Review concept floor plan and code analysis with Building. Submit Design Development package (2 weeks) Submit Minor Use Permit application to Planning
July 2009	Receive and incorporate County comments (2 weeks) Submit 65% CD's for Over-The-Shoulder review by County (3 weeks)
August 2009	Receive County Planning Approval on Minor Use Permit Package (8 weeks) Submit 95% CD package (4 weeks) Receive County comments (1 week) Submit 100% CD package (2 weeks) Submit for plan check
September 2009	County Plan Check Complete (4 weeks)
October 2009	Out to Bid (4 weeks)
November 2009	Award Construction Contract/Start Construction (4 weeks)
March 2010	Construction Complete/County Move-In (4 months)

**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/on Exhibit B-1; 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 One Hundred Eleven Thousand Dollars and no/100 Dollars (\$111,000.00).

TASK:	COST
Programming/Design Development	\$ 20,160
Construction Documents	\$ 34,055
Bidding	\$ 2,420
Construction Administration	\$ 19,400
Civil Engineering for Extension of water line	\$ 15,000
Civil Engineering for Off-Site Improvements	\$ 9,000
Additional Services (as requested by the County)	\$ 10,965
Project Grand Total	\$111,000

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 \$10,965.00.

**EXHIBIT B-1
HOURLY RATE SCHEDULE**

Madsen, Flathmann, Dameron & Babcock Architects, Inc.

Principal	\$135.00/hour
Associate	\$120.00/hour
Designer	\$105.00/hour
Project Architect/Manager	\$105.00/hour
Job Captain	\$100.00/hour
Senior Drafter	\$85.00/hour
Intermediate Drafter	\$75.00/hour
Office Staff	\$65.00/hour

KASL Consulting Engineers

Engineer, Surveyor 1	\$184.00/hour
Engineer, Surveyor 2	\$157.00/hour
Engineer, Surveyor 3	\$140.00/hour
Engineer, Surveyor 4	\$124.00/hour
Engineer, Surveyor 5	\$108.00/hour
Engineer, Surveyor, Technician 6	\$96.00/hour
Engineer, Surveyor, Technician 7	\$91.00/hour
Engineer, Surveyor, Technician 8	\$81.00/hour
2-Man Survey Crew	\$195.00/hour
3-Man Survey Crew	\$235.00/hour

Buehler & Buehler Structural Engineers, Inc.

Senior Principal	\$165.00/hour
Principal	\$150.00/hour
Senior Professional	\$135.00/hour
Professional	\$115.00/hour
Senior Technician	\$90.00/hour
Technician	\$80.00/hour

Peters Engineering

Principal	\$150.00/hour
Engineer	\$125.00/hour
Senior Designer	\$95.00/hour
Designer	\$85.00/hour
CADD	\$75.00/hour
Clerical	\$60.00/hour

The Engineering Enterprise

Principal	\$185.00/hour
Associate/Project Engineer	\$145.00/hour
Designer	\$110.00/hour
Junior Designer	\$95.00/hour
Senior CAD Technician	\$100.00/hour
CAD Technician	\$90.00/hour
Administration	\$60.00/hour

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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. Floor Plan of the existing building.
3. Front end and Division 1 specifications.
4. Move Coordination.
5. Asbestos abatement drawings and specifications.
6. County shall promptly review any and all documents and materials submitted by the Consultant.
7. Geotechnical report.
8. If the proposed new water line along Cook Riolo is not contained entirely within the public right of way, County will acquire required easements.

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. **Insurance.** Consultant shall file with County a Certificate of Insurance, with companies acceptable to County, with a Best's Rating of no less than A:VII showing the following coverage:
 - A. **Workers' Compensation and Employers' Liability Insurance**
 - 1) Workers' Compensation Insurance shall be provided, as required, by any applicable law or regulation. Employers' 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, one million dollars (\$1,000,000) each employee for bodily injury by disease.
 - 2) If there is an exposure of injury to Consultant's employees under the U.S. Longshoremen and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.
 - 3) Each Workers' Compensation policy shall be endorsed with the following specific language:

Cancellation Notice "This policy shall not be canceled or materially changed without first giving thirty (30) days' prior written notice to the County."
 - 4) Consultant shall require all Subconsultants to maintain adequate Workers' Compensation Insurance. Certificates of Workers Compensation shall be filed forthwith with the County upon demand.

B. General Liability Insurance

- 1) Comprehensive General Liability or Commercial General Liability insurance shall be provided covering all operations by, or on behalf of Consultant, covering bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for contractual liability insuring the obligations assumed by Consultant in this Agreement.
- 2) One of the following forms is required:
 - a) Comprehensive General Liability;
 - b) Commercial General Liability (Occurrence); or
 - c) Commercial General Liability (Claims Made).
- 3) 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:
 - a) One million dollars (\$1,000,000) each occurrence;
 - b) One million dollars (\$1,000,000) aggregate.
- 4) If Consultant carries a Commercial General Liability (Occurrence) policy:
 - a) The limits of liability shall not be less than:
 - i) One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage);
 - ii) One million dollars (\$1,000,000) for Products-Completed Operations;
 - iii) One million dollars (\$1,000,000) General Aggregate.
 - b) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately to this contract, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).
- 5) 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:
 - a) The limits of liability shall not be less than:
 - i) One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage);
 - ii) One million dollars (\$1,000,000) aggregate for Products-Completed Operations;

iii) One million dollars (\$1,000,000) General Aggregate.

b) The insurance coverage provided by Consultant shall contain language providing coverage up to six (6) months 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.

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

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

D. Automobile Liability Insurance

- 1) Automobile Liability insurance shall be provided covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.
- 2) Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

E. Professional Liability Insurance (Errors & Omissions)

- 1) 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.
- 2) If Consultant sub-contracts in support of Consultants work provided for in the agreement,
- 3) 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.
- 4) The insurance coverage provided by the consultant shall contain language providing coverage up to six (6) months 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.

5. **Indemnity.** Consultant hereby agrees to protect, defend, indemnify, and hold the County free and harmless from any and all losses, liabilities or damages, claims and liens, 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 the County, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the County) and without limitation by enumeration, all other claims or demands of every character to the extent the above are caused by Consultant's negligent performance, recklessness, or willful misconduct. The claims covered by this Paragraph 5 include, without limitation, any claims brought by private person(s) and/or governmental agency(ies) relating in any way to alleged California Labor Code violations or alleged violation of prevailing wage laws, and/or any other employment-related laws. Consultant's obligation shall include the duty to defend County as set forth in California Civil Code Section 2778 and 2782.5. This provision is not intended to create any cause of action in favor of any third party against Consultant or the County or to enlarge, in any way, the Consultant's liability; but is intended solely to provide for indemnification of the County from liability for damages or injuries to third persons or property arising from Consultant's negligence, recklessness, or willful misconduct pursuant to this contract or agreement. As used above, the term "County" means the Placer County, or its officers, agents, employees and volunteers.

6. **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.

7. **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.

8. **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.

9. **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.

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

15. **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.

16. **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.

17. **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, and Consultant hereby expressly waives those provisions in California Code of Civil Procedure §394 that may have allowed it to transfer venue to another jurisdiction. Each party waives any Federal court removal and/or original jurisdiction rights it may have.

18. **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.

19. **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.