

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

To: Honorable Board of Supervisors Date: September 1, 2015
From: Ken Grehm, Facility Services Interim Director
By: Rob Unholz, Capital Improvements Manager
Subject: Capital Improvements Division / Consultant Services Agreement / MFDB Architects, Inc. / Auburn Library Landscape Rehabilitation

ACTION REQUESTED

Approve a contract with MFDB Architects, Inc. for consultant architectural and engineering services in the amount of \$124,000. Funding is provided in the Capital Projects Fund in the FY 2015-16 Proposed Budget.

BACKGROUND: On March 27, 2015, Capital Improvements staff issued a Request for Proposal (RFP) to all six of the approved firms on the Qualified List 10084 Architectural Consulting Services. Capital Improvements staff conducted a pre-proposal job walk on April 17, 2015 and three firms submitted proposals on May 8, 2015. The firm MFDB Architects, Inc. from Sacramento, California was found to be the most responsive.

This project is intended to remove trip hazards created by the original concrete walks that have been heaved and displaced by mature tree roots, provide accessible paths of travel from the public way and parking lot, improve lighting and renovate the existing landscape by saving the mature specimen plants, as is practical, and provide new and drought tolerant/resistant plantings. The scope of these consultant services includes meetings with County staff and members of the public, schematic design, design development, construction cost analysis, construction documents, bidding assistance and construction administration and the warranty period services.

Capital Improvements staff will return to your Board to present the estimated project construction costs, and to request approval of the plans and specifications and ask for permission to solicit bids. In order to proceed with the design portion of this project, it is requested your Board approve the attached Consultant Services Agreement with MFDB Architects, Inc. and authorize the Chair to execute the contract in an amount not-to-exceed amount \$124,000.

ENVIRONMENTAL CLEARANCE: This project is exempt from the California Environmental Quality Act pursuant to Section 15301, Class 1 that provides for operation, repair, maintenance, or minor alteration of existing public structures, facilities or topographical features, involving negligible or no expansion of existing uses.

FISCAL IMPACT: The cost of the contract with MFDB Architects, Inc. for architectural and engineering consulting services is \$124,000 and is budgeted in the FY 2015-16 Proposed Budget in the Capital Projects Fund, Project No. 4892. The cost of these consulting services is included within the total budgeted project cost of \$242,215.

Attachment 1 - Consultant Services Agreement Project No. 4892

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Contract No.: _____

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

Contract Description: Architectural Services - Placer County Auburn Library Landscape Rehab Project, Project No. 4892

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 MFDB Architects, Inc. ("Consultant") a 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 Twenty-Four Thousand and no/100 Dollars (\$124,000.00)** 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:

COUNTY: Placer County Department of Facility Services
Attn: Bill Lardner, Architect / Project Manager
Capital Improvements
11476 "C" Avenue
Auburn, CA 95603
Phone: 530-886-4983
Fax: 530-889-6863

CONSULTANT: MFDB Architects, Inc.
Attn: Daniel Dameron
111 Scripps Drive
Sacramento, CA 95825
Phone: 916-972-0131
Fax: 916-481-1845

REMIT TO CONSULTANT:
MFDB 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: _____
Chair, Board of Supervisors

Date: _____

MFDB Architects, Inc., CONSULTANT

By: _____
Daniel Dameron – President/Secretary

Date: _____

By: _____
G. Tyler Babcock – Vice President/Treasurer

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 B1: Hourly Rate 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 Schematic Design, Design Development, Construction Documentation and Bid Documents for the Auburn Library Landscape Rehab project. Services shall also include assistance during Bidding, Construction Administration, and Warranty inspections.

The Architect's (Consultant's) scope of services shall include, but not be limited to, the following work:

TASKS:

1. Schematic Design:

- Review and evaluation of all project documentation provided by the County, including the Accessibility Inspection Survey and RFP Scope of Work list.
 - Project Report of the existing issues and recommended proposed new solutions.
- Schematic Design (SD) Project Report, and Preliminary Cost Estimate:
 - Initial Kickoff Meeting with County to start the Project.
 - During the same Kickoff Meeting with Project Manager and Client Department, discuss scope of work, proposed project design and construction phasing issues.
 - During the same Kickoff Meeting perform a site field visit with review of project design elements and site conditions for site work, landscaping and irrigation.
 - Determine the current Americans with Disabilities Act (ADA) and 2013 California Building Code (CBC) accessibility requirements for these specific site areas, parking areas, paths of travel to the building entrances, signage and related site improvements. Begin preliminary assessment of accessibility requirements during the same Kickoff Meeting.
 - SD Design and Project Report including areas of work with proposed site design improvement and landscaping drawings and written recommendations. Project report shall also include defined areas of the existing concrete flatwork conditions which will require removal and replacement in the opinion of the Consultant.
 - SD Design to include diagrammatic storm drainage ponding conditions and recommendations for new site area and downspout drainage improvements.
 - Project Report Attachments will include a Preliminary Project Schedule in outline narrative form and a Preliminary Cost Estimate for complete budgeting of the proposed project including CSI Division cost line items without specific measured quantity takeoffs or unit costs.
 - Project Report will also include an exhibit indicating deficient areas of accessibility.
 - Site Survey of those areas within the project scope of work using a licensed surveyor and field crew to verify existing grades, slopes, drainage infrastructure, any problematic drainage conditions and vertical and horizontal control using an existing defined datum point to be determined prior to commencing survey work. An existing property boundary survey is excluded from this contract.

2. Design Development:

- Design Development (DD) Documents, Outline Specifications and Analysis of Options:
 - Meeting with Project Manager to review and provide complete written responses to County's SD Review Comment List on the Task 1. SD submittal.
 - DD Drawings and Outline Specifications with incorporation of the County's SD Review Comment List as directed.
 - The Landscape design process will include the participation and design review of the County Department of Facility Services Parks Division.

- Research and design all exterior site accessibility needs including parking, paths of travel and signage to comply with code requirements.
- Advise the County on a minimum of three (3) distinct concrete flatwork surface finishes and/or paving types appropriate for this project and provide cost modifiers for each as incorporated into the project.
- The extent of the new Traffic Crossing to the existing path of travel from the public street will include one (1) new curb ramp and a crossing with new pavement markings, terminating at the currently existing curb ramp.
- Analyze various LED exterior lighting fixtures and provide catalog cut sheets of each and a simplified 15-year cost savings life cycle analysis.
- DD Drawings to include new landscape planting with botanical and common names, together with existing plants to remain including the project site improvement designs with sufficiently detailed descriptions of ramps, curbs, sidewalks, railings, walkways, planters, trellises, bicycle racks, gates, site drainage and site lighting.
- Investigate existing landscape irrigation system, including controller, valves, piping and heads and determine the portions which have the capacity to handle the project improvement areas and new plantings while also continuing to serve the overall site existing plantings. Outline the design of new landscape irrigation as necessary, including on-going maintenance issues, new tie-ins to existing irrigation to remain and the removal of existing irrigation to be deleted.
- Incorporate the County's plant materials, irrigation components, monitoring system and other standard items into the project design and cost estimates. Review and discuss all landscaping and irrigation items in a formal meeting to be scheduled by the County during design.
- Outline Specifications using the Master Format latest edition, Part 2 Materials and/or Products portion for each item in the proposed scope of work.
- Provide a Cost Analysis of Options which will include estimated quantities and unit cost estimates of the construction work of five (5) distinct project options:
 - Option 'A' – Parking, Drop-off, Ramps, Front Landscape and Main Entry.
 - Option 'B' – Courtyard 6.1, Trellises, Gates, South Landscape and Walkway.
 - Option 'C' – Courtyard 6.2, Landscaping, Irrigation and flatwork replacement.
 - Option 'D' – New walk path of travel from existing Staff Parking.
 - Option 'E' – A combination blending of Plans 'A', 'B', 'C' and 'D' as directed.
- Create a preliminary phased design/construction plan, allowing for temporary rerouting for public entry and exiting to and from the Library, parking area closures, temporary book return boxes, and related functions to be accommodated during the various portions of the construction scope of work.
- Cost estimate: Provide a phased preliminary itemized construction cost estimate coordinated with the scope of work in each phase.

3. Construction Documents & Plan Check:

- Meeting with Project Manager to review and provide complete written responses to County's DD Review Comment List on the Task 2. DD submittal.
- Incorporation of the County's DD Review Comment List as directed.
- Construction Documents (CD) according to selected Option and design solution of Phase II, with 3-Part Master Format latest edition specification sections for all products in coordination with the County's General Conditions and Division 1 requirements.
- Complete itemized CD cost estimate for construction at the 90% CD phase.
- Incorporate and coordinate into the CD's up to three (3) Bid Alternates with at least three (3) specific items included under each bid alternate.
- Design and Construction documents shall be provided to the County in AutoCAD version acceptable by the County, all specifications in Microsoft Word, all cost estimates in

Microsoft Excel and all project schedules in Microsoft Project. The consultant shall submit four (4) sets of each report, cost estimate, drawing sets and all other types of documents with each submission. A copy of each document in .pdf format shall be submitted as well.

- Supporting documentation as necessary shall include but not be limited to electrical lighting photometrics, electrical power and voltage loss calculations, structural calculations for trellis members and foundations, storm water volume and drainage study.
- Deliver all documents necessary for permit applications and participate in the Permit Process including the plan check review which will be administered by the County. Respond to all plan check review comments in writing and prepare and deliver revised application documents, drawings, calculations, samples, etc. as necessary to obtain permit approval. The County will pay all required fees and public agency charges. Consultant shall deliver all required documents to the necessary review agencies.
- All reimbursable expenses are to be included in base fee amount of the contract.
- Update the CD cost estimate for construction at the 100% CD/Permit Issuance milestone.

4. Bidding:

- Project Bidding
 - Assist the County in preparing the final bidding documents.
 - Incorporate Bid Alternates as directed by the County.
 - Assist the County in answering bid questions and preparation of any Addenda and attendance by the Architectural Firm's key staff and relevant "Siegfried" subconsultants at the pre-bid job walk.

5. Construction Administration:

- Project Construction Administration
 - Construction administration including site visits, review of Submittals and assistance to the County in answering Contractor Requests for Information (RFI), review of Proposed Change Orders (PCO's), and preparation of the punch list for Substantial Completion and assistance with Final Closeout.
 - Attend the Pre-Construction Conference on site. Perform periodic field visits and attend weekly construction meetings. Provide consultant meeting notes and field visit reports to County.
 - Review Contractor's Applications For Payment and percentage of completion.
 - Provide a set of "As Built Documents" or "Record Documents" reflecting all bid addenda and changes, and based on Contractors field documents. Documents shall be provided in AutoCAD & .PDF formats.
- Utilize "Constructware" construction management software and internet based project management systems as follows:
 - Autodesk Constructware, latest version. One (1) seat license will be purchased by the County and provided to the Consultant for use during this project.

6. Warranty Period:

- Approximately eleven (11) months after Substantial Completion, attend the Warranty Period inspection on site with the County and provide written notes and recommendations to the County.

Defined Additional Services Scope:

Task 'A':

- Public Meetings: At times during the overall course of this project, attend and participate in a total two (2) Public Meetings for project presentation and project review with the County, the

Client Department and members of the public community . Attendance will include the Architectural Firm's key staff and relevant "Siegfried" subconsultants. The Architect will have a leading role during the project presentations. These meetings are assumed to each be four hours in duration. Each meeting provide two (2) colored exhibit boards mounted on foam core.

Task 'B':

- Using a Certified Access Specialist (CASP) perform a post project accessibility review and provide a written accessibility evaluation of the Auburn Library facility within 100 feet of the exterior building walls and within 100 feet of the new construction scope of work of this project, whichever is farther.

Task 'C': Allowance Amount of \$ 7,500

- Permanent Stormwater BMP's: Provide the design and engineering including detailed Construction Documents with drawings and specifications for the on-site treatment of storm water in the proximity of the Auburn Library overall facility. Documents shall include an analysis of the currently adopted storm water regulatory requirements and best practices recommendations.

Task 'D': Allowance Amount of \$ 3,500

- Perform agricultural suitability sampling, testing analysis and reporting on the existing soils in up to three different areas of the site determined to receive new landscape planting.

Included in the above scope of work are Reimbursable expenses, including but not limited to: phone calls, travel, mileage, postage, deliveries, copies, faxes, and printing, plotting and reproductions necessary for normal scope of services described.

EXCLUSIONS/CLARIFICATIONS:

Exclusions include the following:

1. Testing, surveys, identification, or remediation of hazardous materials
2. Property Boundary Line Survey (of the existing parcel of this project)
3. Areas beyond limits of accessibility review and evaluation as defined in Task 'B'
4. Seismic analysis of existing building structure or seismic upgrades
5. Accessibility upgrades of existing interior of building
6. Fire sprinkler systems
7. Existing building energy envelope upgrades
8. LEED related services
9. Preparation of Arborist Reports
10. Preparation of Environmental Documents
11. Preparation of utility company rebate applications
12. Preparation of Construction Contract Agreement and General Conditions
13. Preparation of Division 01 Specifications to be provided by The County
14. Commissioning

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:

| | |
|-------------------------------|--|
| September – October 2015 | <u>Schematic Design</u> |
| November 2015 | <u>Design Development</u> |
| December 2015 – February 2016 | <u>Construction Documents</u> Submittal to Building Department by February 5, 2016 |
| March 2016 | <u>Bidding</u> Bids Opened approximately April 13, 2016 Award Contract approximately June 7, 2016 |
| June - August 2016 | <u>Construction</u> |
| August 2016 - August 2017 | <u>Warranty Period</u> |

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 **One Hundred Twenty-Four Thousand and no/100 Dollars (\$124,000.00)**.

| TASKS: | COST |
|--|----------------------|
| 1. Schematic Design: | \$ 11,525 |
| 2. Design Development: | \$ 18,823 |
| 3. Construction Documents & Plan Check: | \$ 27,917 |
| 4. Bidding: | \$ 6,045 |
| 5. Construction Administration: | \$ 20,584 |
| 6. Warranty Period: | \$ 1,000 |
| <hr/> | |
| Total Basic Fee: | \$ 85,894 |
| Additional Services: | |
| Defined Additional Services Task 'A' Public Meetings: | \$ 8,010 |
| Defined Additional Services Task 'B' Post Project Accessibility Review: | \$ 5,010 |
| Defined Additional Services Task 'C' Permanent Stormwater BMP's | |
| Allowance Amount: | \$ 7,500 |
| Defined Additional Services Task 'D' Agricultural Suitability Report | |
| Allowance Amount: | \$ 3,500 |
| | |
| All Project Expenses including travel, mileage, printing, plotting, postage, deliveries and all other project related expenses are included within the above amounts for each specific Task. | |
| | |
| 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: | |
| | \$ 14,086 |
| TOTAL FEE: | \$ 124,000.00 |

EXHIBIT B-1

HOURLY RATE FEE SCHEDULE

MFDB Architects, Inc.

Hourly Rate Schedule date: May 8, 2015

Architectural Services

| | |
|-----------------------------------|-------|
| Principal Architect | \$145 |
| Associate | \$130 |
| Designer | \$115 |
| Project Architect/Manager | \$115 |
| Job Captain | \$110 |
| Senior Drafter/CAD Operator | \$90 |
| Intermediate Drafter/CAD Operator | \$75 |
| Office Staff Clerical | \$65 |

Civil & Landscape (Siegfried)

| | |
|-----------------------------|-------|
| Principal | \$210 |
| Senior Associate | \$180 |
| Associate | \$160 |
| Project Landscape Architect | \$147 |
| Landscape Arch/Designer II | \$131 |
| Project Civil Engineer | \$149 |
| Project Structural Engineer | \$149 |
| Technician II | \$91 |
| Clerical | \$66 |
| 1 Person Survey Crew | \$160 |
| Project Land Surveyor | \$147 |

Electrical Engineering (The Eng. Enterprise)

| | |
|---------------------|-------|
| Principle Engineer | \$210 |
| Associate | \$190 |
| Engineer | \$160 |
| Lighting Designer | \$145 |
| Designer | \$130 |
| CAD Technicians | \$105 |
| Project Coordinator | \$100 |
| Administration | \$75 |

Post Occupancy Accessibility (Dolin+ Davis)

| | |
|----------------|-------|
| CASp Inspector | \$190 |
|----------------|-------|

Rates Subject to annual update
End of Exhibit B-1 Hourly Rate Fee Schedule

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. Copies in .pdf file format of original Auburn Library site and building drawings.
3. Accessibility Inspection/Survey dated Feb. 20, 2013.
4. County will provide one (1) seat license for Autodesk Constructware.
5. County will provide construction contract General Conditions and Division 01 Specifications Sections.
6. County will pay any fees as may be required by other County Departments, or required by other public agencies having jurisdiction.
7. 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 in 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:

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).

- 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 polices 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.

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. 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. Copies of applicable prevailing wage rates are on file with and available upon request from the Department of Facility Services or at <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. Consultant agrees and acknowledges that the services provided under this Agreement may be subject to DIR Compliance Monitoring Unit requirements, and that further information on Compliance Monitoring Unit requirements can be found at <https://www.dir.ca.gov/dlse/cmu/cmu.html>.

Consultant further agrees to comply with all other related provisions of the California Labor Code, including but not limited to, the provisions of Labor Code Section 1775 relating to the payment of prevailing wages, Section 1777.5 relating to the employment of apprentices and Section 1811-1813 relating to the payment of Overtime, as such provisions may be amended or modified.. Consultant agrees and acknowledges that, 1) failure to comply with the proper prevailing wage requirements may result in a penalty of up to \$200 per day per worker; 2) failure to comply with apprenticeship requirements may result in a penalty of \$100-\$300 for each calendar day of violation; and, 3) failure to pay proper overtime rate may result in a penalty of \$25 per day per worker.

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.

**EXHIBIT E
CONFIDENTIAL**

**NOT FOR PUBLIC USE
FOR ACCOUNTING PURPOSES ONLY**

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

Contract Description: **Architectural Services - Placer County Auburn Library
Landscape Rehab Project, Project No. 4892**

CONSULTANT: MFDB (Madsen, Flathmann, Dameron & Babcock) Architects, Inc.

FEDERAL TAX ID # [REDACTED] (On file)