

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

To: **BOARD OF SUPERVISORS** Date: **JANUARY 22, 2008**

From: **JAMES DURFEE / JOEL SWIFT**

Subject: **100 RAMP REMODEL PROJECT, PROJECT NO.4744B**
ARCHITECTURAL AND ENGINEERING SERVICES

ACTION REQUESTED/RECOMMENDATION: Approve the attached Consultant Services Agreement with Madsen, Flathmann, Dameron & Babcock (MFDB) Architects Inc. to provide architectural and engineering services for the 100 Ramp Remodel, Project No. 4744B, located in the Placer County Government Center in north Auburn and authorize the Chairman to execute the attached Agreement in an amount not-to-exceed \$188,150.

BACKGROUND: In anticipation of the move of the Community Development Resource Agency, Planning, Building, Engineering, DPW, Environmental Health and Air Pollution Control District from the 100 Ramp buildings on B Avenue into the CDRC, your Board approved a project in the Capital Projects Fund to prepare the vacated space for re-occupancy. The 100 Ramp Remodel project consists of the remodeling of 55,000 square feet including Buildings 102A through 107A and is planned for occupancy by the Division of Human Services, Adult System of Care, Women Infants & Children (WIC), the Welcome Center and Community Health. In order to accommodate these occupancies, minor remodeling and infill additions need to be designed and constructed.

In late 2007, Facility Services solicited proposals from four pre-qualified architectural firms to complete the design, prepare plans and specifications and provide construction administration services for the 100 Ramp Remodel Project. MFDB Architects Inc. was selected to perform this work.

In order to proceed with the 100 Ramp Remodel Project, it is necessary for your Board to approve the attached Agreement with MFDB, in an amount not-to-exceed \$188,150.

ENVIRONMENTAL CLEARANCE: This project is exempt from the California Environmental Quality Act pursuant to Section 15301 – that provides for operation, repair, maintenance, or minor alteration of existing structures or facilities not expanding existing uses.

FISCAL IMPACT: The estimate of total costs for the 100 Ramp Remodel Project is \$3,500,000, including \$188,150 for architectural and engineering services. There are sufficient funds appropriated in the Capital Projects Fund project account for these services.

ATTACHMENT: MFDB AGREEMENT – 100 RAMP REMODEL

JD/JS/RU/DH

CC COUNTY EXECUTIVE OFFICE
PROCUREMENT SERVICES
HEALTH AND HUMAN SERVICES

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Contract No.: _____

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

Contract Description: 100 Ramp Remodel – Dewitt Government Center

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 Eighty Eight Thousand One Hundred Fifty and no/100 Dollars (\$188,150.00) 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: Doug Hawk
Capital Improvements Division
11476 "C" Avenue
Auburn, CA 95603
Phone: 530-889-6805
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:

Same as above

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

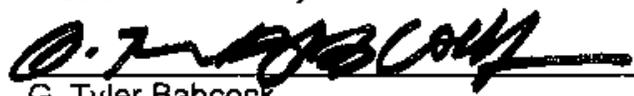
By: _____
Chairman,
Board of Supervisors

Date: _____

Madsen, Flathmann, Dameron & Babcock Architects Inc. CONSULTANT

By:  _____
Daniel Dameron
President/Secretary

Date: 12/21/2007

By:  _____
G. Tyler Babcock
Vice President/Treasurer

Date: 12-21-07

Approved as to Form

Approved as to Funds

By: _____
Placer County Counsel

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
- Attachment E: Confidential Accounting Information

EXHIBIT A

SCOPE OF SERVICES

The scope of services shall consist of the remodel and renovation of approximately 55,000 square feet of existing office space and the addition of approximately 1,800 square feet of new Lobby/restroom infill space in Placer County's existing 100 Ramp buildings 102A through 107A. Work includes a new entrance ramp into Building #102A. Work includes new landscape planting in two enclosed courtyards between 103A/104A and between 104A/105A. This work is intended to house various programs and divisions of the County Health and Human Services Department. The County has completed all design programming for this work and has produced a floor plan design scheme 'G' in AutoCAD as the basis for this contract. This contract includes the following architectural/engineering services.

1. PRELIMINARY DESIGN

- a. Attend a project kick-off meeting with the County.
- b. Review all as-built data furnished by County. Field verify additional architectural, structural, plumbing, mechanical, electrical and landscape conditions pertinent to scope of remodel work proposed.
- c. Prepare code analysis of County's proposed remodel plan, including Fire & Life Safety, ADA and Title 24. (See Exclusions.)
- d. In cooperation with Facilities Services, confirm code assumptions/direction with Building Official and with Fire Marshal. Architect to attend one meeting with Building Official and one meeting with Fire Marshal.
- e. In cooperation with County, make minor preliminary plan revisions to the extent required by as-built conditions and/or code analysis.
- f. Prepare preliminary partial exterior elevations of areas of building addition.
- g. Prepare preliminary landscape planting plan for 2 interior courtyards.
- h. Submit 4 sets of finalized Preliminary floor plans, elevations and code analysis. Cost of printing and delivery included.

2. DESIGN DEVELOPMENT

- a. Attend Design Development kick-off meeting with the County and receive County comments on Preliminary set.
- b. Further develop architectural drawings to include door/window/finish schedules, reflected ceiling plans and interior elevations.
- c. Structural engineer to establish final structural design criteria and drawings documenting basic structural system, dimensions and preliminary sizing of structural components.
- d. Mechanical engineer to prepare diagrammatic plans encompassing building plumbing, heating, ventilating and air conditioning systems and fire sprinkler system design performance.
- e. Electrical engineer to prepare diagrammatic power, signal and lighting plans.
- f. Prepare outline specifications.
- g. Prepare 3 interior design color schemes and mount on boards, for use by County Project Manager.
- h. Prepare opinion of probable construction cost based on design development drawings and outline spec.

- i. Submit 4 sets of finalized design development drawings, outline spec, 3 color boards and cost estimate. Cost of printing and delivery included.

3. CONSTRUCTION DOCUMENTS

- a. Attend Construction Document kick-off meeting with County and receive County comments on DD set.
- b. Prepare complete construction drawings and specifications including structural, mechanical, plumbing, electrical and landscaping.
- c. Incorporate 1-3 interior color schemes selected by County.
- d. Coordinate with County's General Conditions and Division 1 requirements.
- e. Prepare structural calculations and Title 24 energy compliance documentation required for plan check.
- f. Submit 4 sets of 95% complete construction documents to Facilities Services. Cost of printing and delivery included. 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.
- g. Prepare 100% CD opinion of probable construction cost.
- h. Assist County Project Manager in shepherding documents through plan check. Respond to plan check comments as required.

4. BIDDING

- a. Bidding will be administered by the County. Printing and delivery of bid sets will be paid directly by County.
- b. Attend PreBid Walk.
- c. Assist County in answering bidder questions and preparing text and/or graphics for County issued addenda.
- d. Attendance at Bid Opening not included.

5. CONSTRUCTION ADMINISTRATION

- a. Architect will attend Pre-Construction Conference.
- 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.
- f. Provide the following site visits:
 - Architect: 9 visits (in addition to PreCon. Conf. for a total of 10 visits)
 - Landscape: 2 visits
 - Structural: 2 visits
 - Mechanical: 2 visits
 - Electrical: 2 visits

6. RECORD DRAWINGS

- a. Incorporate Contractor redlines into electronic drawings for final Record Set. Submit one set plus a CD to County. Cost of printing and delivery included.

7. ASSUMPTIONS/EXCLUSIONS

- a. Hazardous materials surveys and abatement drawings and specifications will be furnished by County.
- b. County will provide "final" design floor plan scheme in .dwg format.
- c. County will provide as-built locations of all power/data/phone outlets, light fixtures, switches and fire sprinkler heads.
- d. County will provide front end and Division 1 specifications.
- e. County will provide systems furniture design, drawings and coordination.
- f. County will provide move coordination.
- g. Existing interior ramp and exterior ramp/covered walkway have been determined to comply with code and will remain. No exterior painting included in scope.
- h. Our scope excludes structural evaluation or retrofit of the existing buildings for structural seismic safety.
- i. All mechanical units will be ground mounted.
- j. Excludes the preparation of documents for alternate bids.
- k. Excludes providing details for repair of defective construction.
- l. Project scope does not include a general code upgrade of existing mechanical systems or Title 24 energy code upgrade of existing buildings or mechanical systems (see additional services).
- m. No fire/life safety code evaluation of the existing HVAC/plumbing/sprinkler system will be provided.
- n. Assume no HVAC load growth for existing remodeled spaces.
- o. An existing HVAC equipment conditions survey will not be provided. We will assume all HVAC units are functioning at or near nameplate capacity and are considered satisfactory by the County for the planned uses in the facility. Controls and/or energy management system modifications are not included. Existing area zone thermostats controlling existing A/C units will not be replaced or relocated. Air balance measurements are not included. Ductwork modifications will be limited to minor relocation of floor grilles where necessary.
- p. Provide Prescriptive approach compliance documentation of Title 24 non-residential energy standards for the new addition building area only.
- q. Excludes life cycle cost analyses, energy effectiveness studies and preparation of maintenance or operating manuals.
- r. Includes notations on plans for required fire sprinkler head relocation due to wall changes. Excludes hydraulic calculation of or detailed pipe sizing and design of fire sprinkler system, which we assume will be provided by the design/build fire sprinkler subcontractor
- s. Existing light fixtures as a general rule will stay.
- t. Fire Alarm: Proposal includes upgrades to the fire alarm system for a code compliant system. This will include a number of new devices, which will likely mean a new system will be required.
- u. Excludes LEED related services.
- v. Excludes security system design.
- w. No civil engineering work is included (see additional services).

- x. Additional printing and deliveries requested by the County above and beyond 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 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;

- 1/8/08: A/E Contract approved by Board
- 1/10/08: A/E Starts Work
- 1/31/08: Submit Preliminary Design Package
- 2/7/08: Receive County comments. Kick-off Design Development.
- 2/28/08: Submit Design Development Package
- 3/6/08: Receive County comments. Kick-off Construction Documents.
- 4/17/08: Submit 95% Construction Document Package
- 4/24/08: Receive County comments
- 5/8/08: Submit 100% Construction Document Package

The preliminary schedule above provides the County a one week review period after the completion of Preliminaries, after completion of Design Development and after completion of the 95% Construction Documents. If County review times are longer or shorter, the schedule would be affected accordingly.

**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 Eighty Eight Thousand One Hundred Fifty and no/100 Dollars (\$188,150.00)**.

TASK:	COST
1. Preliminary Design	\$ 23,300.00
2. Design Development	\$ 26,100.00
3. Construction Documents	\$ 63,350.00
4. Bidding	\$ 6,600.00
5. Construction Administration	\$ 29,100.00
6. Record Drawings	\$ 2,200.00

The following are allowances for additional services as requested:

7. Topographic Survey	\$ 7,500.00
8. Title 24 Energy Compliance of existing Bldgs.	\$ 10,000.00
9. Additional Services	<u>\$ 20,000.00</u>

Total Basic Fee:	\$ 188,150.00
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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 \$ 37,500 based on the following fee schedule;

HOURLY RATE SCHEDULE

MFDB 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

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	\$125.00/hour
Engineer	\$115.00/hour
Senior Drafter	\$ 95.00/hour
Designer	\$ 85.00/hour
CADD.....	\$ 75.00/hour
Clerical.....	\$ 45.00/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
Delivery	\$ 45.00/hour

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 Manger. The County Project Manager shall act as the liaison between the consultant and user departments.
2. Final Schematic design (Scheme H) in AutoCAD format.
3. Dewitt Map in AutoCAD format.
4. Building plans of existing buildings 102A through 107A showing the following existing conditions; Electrical outlets, Data/phone jacks, Light Fixtures, Switches, Fire sprinkler heads, smoke detectors, pull stations, doors, windows & ceiling type in AutoCAD format.
5. Plans and specifications of County managed asbestos abatement project to be performed prior to this project construction.
6. Front end and Division One specifications in IBC format.
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 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).
- 2) The insurance coverage provided by the consultant shall be kept current by consultant at least 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 2782.8. This section shall not be waived or modified by contractual agreement, act, or omission of the parties. 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 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.

