

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

To: Honorable Board of Supervisors
From: *MD* Mary Dietrich, Facility Services Director
By: Rob Unholz, Capital Improvements Manager
Subject: Placer County Government Center Development Relocation
Project No. 4917 Architectural Services Agreement

Date: July 8, 2014

ACTION REQUESTED:

1. Approve and authorize the Chairman to execute the Consultant Services Agreement with Moniz Architecture to provide design and construction services for the Placer County Government Center (PCGC) Development Relocation Project No. 4917, in North Auburn in an amount not-to-exceed \$640,737 in budgeted net county cost.

BACKGROUND: On March 11, 2014, your Board directed staff to continue negotiations with Costco Wholesale Corporation for Site Access and Ground Lease Agreements at the Placer County Government Center in Auburn. In anticipation of successful negotiations, Facility Services will need to relocate various County Departments that occupy buildings within the area to be ground leased. To accomplish this work Moniz Architecture was selected by the Capital Improvements Division from a County pre-qualified list.

On August 26, 2013 the Purchasing Manager executed an Agreement with Moniz Architecture for scoping and space programming to move one of the Parks and Grounds Shop, the Utilities Division F Avenue Shop and Yard, the Sheriff's Dive Unit and the Department of Public Works (DPW) Tire Barn. Programming documents have been completed and we are now prepared to commence with the design and construction documents based on the Programming Summary and Conceptual Plan. The preliminary cost estimate for construction is \$4.6 million.

The project consists of the following proposed facility relocations:

- One of the Parks and Grounds Shop to move from Second Street to a site adjacent to their Main Shop on Third Street. This relocation will consist of a new 2,160 sq. ft. metal building for palletized material storage and a small office, and 1,440 sq. ft. in covered outdoor storage for equipment, and site work and utilities.
- The Utilities Division F Avenue Shop and Yard to relocate to Second Street. The Utilities Division relocation will consist of a 5,347 sq. ft. metal building with area to store vector trucks, trailers, pumps, generator pumps, meters, safety gear, pipe racks, emergency repair supplies, welding area, staff restroom with shower, pump shop, hydro shop, sign shop, and workbench. 2,700 sq. ft. of covered outdoor storage space is included for generators, compressor, pumps, wash down area, steam cleaner, pump test station, parking for closed circuit television vans, trailer and light tower.
- The Sheriff's Dive Unit on F Avenue to relocate to a site within their existing Vehicle Yard on B Avenue. This relocation will consist of a 5,568 sq. ft. metal building with area for workstations, a training/de-briefing room, restrooms with showers and lockers, three bays for boat and truck storage, maintenance work area, dive lockers and benches. This building also has a 1,600 sq. ft. storage loft over the office/locker area and 1,800 sq. ft. of covered outdoor storage for gear washing, generator, truck and van parking.

- The DPW Tire Barn to relocate to a site to the south of their Maintenance Garage. The DPW Tire Barn relocation will consist of a 3,840 sq. ft. metal building for the storage of tires, engines, transmissions, axels, and miscellaneous other stock. The work also includes space for work benches and flammable storage cabinets.

Moniz Architecture's proposal includes comprehensive architectural and engineering services consisting of the preparation of construction documents for each building, including topographic surveys, code analysis, preparation of Design Review packages, meetings with County staff, and preparation of architectural, civil, structural (foundation design for pre-engineered metal buildings), mechanical, plumbing, and electrical specifications. They will also prepare an estimate of probable construction costs, prepare plan check submittal packages for each building, respond to plan check comments and respond to bidder's questions for two separate bid packages. Moniz Architecture will provide Construction Administration Services, including attendance at the pre-construction meetings, development of the Stormwater Pollution Prevention Plans, response to contractor Requests for Information, review of submittals (including the pre-engineered metal buildings) and progress site visits, as required. They will also assist in punch list preparation and project closeout.

In order to proceed with the PCGC Development Relocation project, it is requested that your Board approve the attached Consultant Services Agreement with Moniz Architecture and authorize the Chairman to execute the contract in an amount not-to-exceed, \$640,737.

ENVIRONMENTAL IMPACT: The PCGC Development Relocation project is Categorically Exempt from the California Environmental Quality Act pursuant to Section 15303-Class (c): New Construction or Conversion of Small Structures, which provides for the construction of up to four commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

FISCAL IMPACT: The program level Estimate of Probable Total Project Cost is \$6,426,795, including \$4,649,898 for construction; \$640,737 for Architectural and Engineering Services; \$396,188 for Project Management, geotechnical and materials testing and fees; and \$739,972 in contingencies. The Consultant Services Agreement with Moniz Architecture for architectural and engineering services for the PCGC Development Relocation Project is for an amount, not-to-exceed \$640,737. There are sufficient funds in the FY 2014-15 Capital Projects Fund Project No. 4917, for these services.

ATTACHMENTS: CONSULTANT SERVICES AGREEMENT FOR ARCHITECTURAL SERVICES

CC: COUNTY EXECUTIVE OFFICE
PROCUREMENT SERVICES

Contract No.: _____

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

Contract Description: Architectural Services for the Placer County Government Center
Buildings Relocations

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 Moniz Architecture ("Consultant") a Sole Proprietor, who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the services as described in Exhibit A in the manner therein specified.
2. **Payment.** County shall pay Consultant for services rendered pursuant to this Agreement at the time and in the amounts set forth in Exhibit B. Consultant shall submit all billings for said services to County in the manner specified in Exhibit B. The total amount payable for all services provided under this Agreement, including Additional Services, shall not exceed **Six Hundred Forty Thousand Seven Hundred Thirty-Seven and no/100 Dollars (\$640,737.00)** 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: Lisa James, Senior Project Manager
Capital Improvements
11476 "C" Avenue
Auburn, CA 95603
Phone: 530-889-6838
Fax: 530-889-6863

CONSULTANT: Moniz Architecture
Attn: Alicia Moniz
2401 C Street
Sacramento, CA 95816
Phone: 916-442-4032
Fax: 916-442-4004

REMIT TO CONSULTANT:
Moniz Architecture
Attn: Alicia Moniz
2401 C Street
Sacramento, CA 95816
Phone: 916-442-4032
Fax: 916-442-4004

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: _____
Chairperson

Date: _____

Moniz Architecture, CONSULTANT

By: *Alicia Moniz*
Alicia Moniz, – Architect, Sole Proprietor

Date: 5/15/2014

Approved as to Form

Approved as to Funds

By: _____
Placer County Counsel

By: *[Signature]*
Placer County Auditor

- Exhibit A: Scope of Services
- Exhibit B: Payment for Services Rendered
- Exhibit B1: 2014 Fee Schedule
- Exhibit C: Facilities, Equipment, and Other Materials and Obligations of County
- Exhibit D: General Provisions
- Exhibit E: Confidential Accounting Information

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EXHIBIT A

SCOPE OF SERVICES

The scope of services shall consist of preparing construction documents and construction administration for several industrial/corporation yard buildings involving multiple departments on multiple sites located within the Placer County Government Center (PCGC), Auburn, CA

The Architect's scope of services shall include the following:

PROJECT DESCRIPTION

Prepare construction drawings for construction of new facilities for:

- Parks & Grounds Department, on 3rd Street at the Placer County Government Center, as per concept plan dated Dec. 16, 2013
- Utilities Division, on 2nd Street at the Placer County Government Center, as per concept plan dated Dec. 16, 2013.
- Sheriff's Dive Unit, on B Avenue at the Placer County Government Center, as per concept plan dated Dec. 16, 2013.
- DPW Tire Barn behind the existing County vehicle maintenance building between F Avenue and 1st Street at the Placer County Government Center, as per concept plan dated Dec. 16, 2013

SCOPE OF SERVICES

Planning and documents for all projects shall proceed simultaneously, to be developed, routed and approved as one package. Deliverables shall be provided as two separate bid packages.

For each project:

1. Prepare Construction Documents
 - a. Confirm program details
 - b. Site meeting with consultant team to review conditions
 - c. Prepare topographic survey
 - d. Code analysis
 - e. Prepare design review package including site plan, floor plan, exterior elevations, and color board for each package.
 - f. Confirm design with County project manager and incorporate comments
 - g. Prepare construction documents
 1. Architectural
 2. Civil, including on-site utilities to building
 3. Structural (foundation design for pre-engineered metal building)
 4. Mechanical/plumbing
 5. Electrical
 6. Specifications
 - h. Prepare a construction cost estimate based on the 80% construction documents
 - i. Prepare a plan check submittal package for the County's use in permit processing

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- j. Respond to County plan check comments
 - k. Respond to bidder's questions about the construction documents
2. Provide Construction Administration Services
 - a. Attend pre-construction meeting
 - b. Prepare SWPPP (to be completed prior to bid package)
 - c. Respond to contractor's requests for information
 - d. Review submittals
 - e. Progress site visits as needed
 - f. Assist client with punch list and project close-out

EXCLUSIONS/CLARIFICATIONS

A. Exclusions include but are not limited to:

1. Payment of permit, impact, planning, design review or other entitlement or application fees
2. Hazardous materials analysis and remediation specification
3. Design of alarm system or security system
4. Geotechnical engineering
5. Utility extensions in the public right of way
6. Landscape design
7. Preparation of boundary survey
8. Environmental impact investigations or reports
9. LEED related services
10. Life cycle cost analysis
11. Services for deductive or additive bid alternate items
12. Design of building management systems
13. Design of voice/data equipment

B. Clarifications

1. For a Fire sprinkler system, if required, the mechanical engineer shall prepare a performance specification for the contractor to design/build.
2. Demolition of existing structures will be shown on the proposed Utilities Department site, to accommodate the new building as shown on the Exhibit A-2. Demolition of existing buildings at the other sites is not included in the scope of these services.

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.

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

June 2014 – October 2014: A/E starts work – Design Documents, including design review
Parks and DPW Completed September 2014
Utilities and Sheriff Completed October 2014

September 2014 – January 2015: Construction Documents: Completed construction documents, and plan check submittal
Parks and DPW Completed December 2014
Utilities and Sheriff Completed January 2015

January 2015 – September 2015: Bidding and Construction:
Parks and DPW Completed June 2015
Utilities and Sheriff Completed September 2015

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**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 Six Hundred Forty Thousand Seven Hundred Thirty-Seven Dollars and no/100 Dollars (\$640,737.00).

TASK:	COST
Task A – Parks Department	
Task A1 – Construction Documents	\$ 77,255
Task A2 – Construction Administration	\$ 17,815
Task B – Utilities	
Task B1 – Construction Documents	\$ 158,967
Task B2 – Construction Administration	\$ 33,175
Task C Sheriff Dive Unit	
Task C1 – Construction Documents	\$ 146,534
Task C2 – Construction Administration.....	\$ 34,475
Task D DPW Tire Barn	
Task D1 – Construction Documents.....	\$ 69,021
Task D2 – Construction Administration.....	\$ 13,825
Additional Services	
Task E1 – Surveying.....	\$ 12,870
Task E2 – Storm Water Pollution Prevention Plan (4).....	\$ 17,600
Task E3 – Cost Estimate.....	\$ 19,800
Task E4 – Additional Services.....	\$ 39,400
 Total Basic Fee:	 \$ 640,737

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 \$39,400,

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Exhibit B-1

2014 FEE SCHEDULE

Hourly billing rates for additional services are as follows:

MONIZ ARCHITECTURE

Principle Architect:	\$175
Project Architect:	\$145
Specification Writer	\$192
Architectural CAD Production	\$85
Sr Principal Structural Engineer	\$180
Principal Structural Engineer	\$172
Structural Senior Professional	\$155
Structural Technician	\$103
Principal Electrical Engineer	\$240
Associate Electrical Engineer	\$215
Electrical Project Engineer	\$184
Electrical CAD Technician	\$120
Principal Mechanical Engineer	\$240
Associate Mechanical Engineer	\$215
Mechanical Project Engineer	\$184
Mechanical CAD Technician	\$120
Principal Civil Engineer	\$230
Civil Project Manager	\$204
Civil Project Engineer	\$190
Civil Staff Engineer	\$110
Surveyor	\$175
Principal Cost Estimator	\$250
Senior Cost Estimator	\$214
Assistant Cost Estimator	\$126

End of Exhibit B-1 2014 Fee Schedule

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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. As-Built Drawings, as available.
3. Final program documents and concept plan approved by County.
4. Submit and process documents to the county Planning, Building and Fire Departments.
5. Provide hazardous materials testing and reports.
6. Provide soils reports.
7. Prepare bid forms, construction contract, general and special conditions of the construction contract.
8. Distribute bid documents and manage the bidding process.
9. 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.

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**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:

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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

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

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

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

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

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

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

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

E. Special Claims Made Policy Form Provisions:

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

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

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

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

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

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

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

Endorsements:

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

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

Automobile Liability Insurance:

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

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

Professional Liability Insurance (Errors & Omissions):

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

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

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

Additional Requirements:

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

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

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

Verification of Coverage - CONSULTANT shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language

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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.

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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.

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**EXHIBIT E
CONFIDENTIAL**

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

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

Contract Description: Placer County Government Center Buildings Relocations

CONSULTANT: Moniz Architecture

FEDERAL TAX ID # On File