

Purchasing Agreement No. P-16-424-S

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 8 day of July, 2016, between the COUNTY OF FRESNO, a political subdivision of the State of California, hereinafter called "COUNTY", and each provider listed in Attachment A, attached hereto and by this reference incorporated herein, hereinafter referred to individually as "CONSULTANT" and collectively as "CONSULTANTS" and such additional CONSULTANTS as may, from time to time during the term of the AGREEMENT, be added by COUNTY.

WITNESSETH:

WHEREAS, the COUNTY has a need to contract with multiple consultant architects to assist the COUNTY Facility Services Manager or his/her designated Project Manager in completing various projects and advanced planning for future projects in the COUNTY's Facility Services Division and other COUNTY projects; and

WHEREAS, consistent with COUNTY Ordinance Code Chapter 4.10 and the Board of Supervisors' adopted Policy governing the selection of architects, engineers, and other professionals, a selection committee selected said CONSULTANTS to provide the COUNTY with Architectural services for said projects; and

WHEREAS, the COUNTY Facility Services Manager or his/her designated Project Manager shall administer this Agreement; and

WHEREAS, the professional Architectural services of the CONSULTANTS may be utilized by the Facility Services Division; and

WHEREAS, staffing levels of COUNTY personnel may not be sufficient to perform Architectural services for all projects, and

WHEREAS, said CONSULTANTS represents that they are qualified and willing to perform Architectural services.

NOW, THEREFORE, the parties hereto have and by these presents do agree as follows:

I. CONTRACTING OF CONSULTANT: BASIC PARAMETERS

A. The COUNTY hereby contracts with the CONSULTANT as an independent contractor to provide Architectural services as described in Article II and enumerated in Article III herein.

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1 B. The CONSULTANT's services shall be performed as expeditiously as is
2 consistent with professional skill and the orderly progress of the work, based on project
3 schedules prepared by the COUNTY Facility Services Manager or his/her designated Project
4 Manager.

5 C. The CONSULTANT shall notify the COUNTY of the names and classifications
6 of employees assigned to a project, and shall not change such assignments without prior
7 notification to and approval by COUNTY.

8 D. If requested by the COUNTY, the CONSULTANT shall retain qualified
9 subconsultant(s) to assist in completing the work. All subconsultants used by the
10 CONSULTANT shall be approved by the COUNTY before they are retained by the
11 CONSULTANT, which approval shall not be unreasonably withheld. Should CONSULTANT
12 retain subconsultants, the maximum Total Fee compensation that may be paid to
13 CONSULTANT hereunder, as specified in Article V below, shall not be increased.

14 E. The CONSULTANT shall not submit bids, or sub-bids, for the contract
15 construction phase of any project for which CONSULTANT provides services hereunder. The
16 CONSULTANT, and all other service providers, shall not provide any project related services
17 for, or receive any project related compensation from any construction contractor, subcontractor
18 or service provider awarded a construction contract for all or any portion of any project for
19 which CONSULTANT provides services hereunder. The CONSULTANT, and all other service
20 providers, may provide services for, and receive compensation from a construction contractor,
21 subcontractor or service provider who has been awarded a construction contract for all or any
22 portion of such a project, provided that such services are provided for, and compensation
23 received for, work outside the scope of this Agreement.

24 **II. DESCRIPTION OF THE WORK COVERED BY THIS AGREEMENT:**

25 A. The work covered by this Agreement is for all or a portion of the services
26 enumerated under Article III for various projects on an as needed basis. The CONSULTANT
27 agrees to provide the professional services that are necessary for each project when expressly
28 authorized in writing by the Facility Services Manager or his/her designated Project Manager.

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CONSULTANT is not guaranteed any minimum fees or any work under this Agreement. No work by CONSULTANT shall begin until CONSULTANT has received a written Notice to Proceed from COUNTY authorizing the necessary project services, the agreed upon not-to-exceed fee for the project in accordance with the approved hourly fee schedule attached hereto as Attachment B and incorporated herein by reference and the agreed upon scope of work for the project. All submittals of documents associated with the project by the CONSULTANT will be made in both hard copy and electronic format.

B. Throughout the term of this Agreement, the CONSULTANT shall collaborate and partner with the COUNTY and other Project participants in the interest of maintaining the Project budget and schedule and minimizing claims. Partnering may be instituted during design and/or during construction phases. The scope of the project will determine the level of partnering to be implemented. Sessions shall be attended by all associated project and executive level staff requested by COUNTY, at no additional cost to COUNTY. All sessions are to be conducted at the Facility Services Building, 4590 E. Kings Canyon, Fresno, CA 93702, although the location of any session(s) is subject to change upon notice by COUNTY.

III. CONSULTANT'S SERVICES:

A. Phase 1, Programming and Schematic Design:

The CONSULTANT shall for each project:

1. Ascertain the requirements through a meeting with the Facility Services Division Manager or his/her designated representative and a review of an existing schematic layout of each project if such layout is available.

2. Confirm existing building systems, including electrical, mechanical, plumbing, communications, telephones, and computers through visual observations, review of record documents, and discussions with the COUNTY Internal Services Department Facility Services Manager as appropriate for each specific project. CONSULTANT shall not be responsible for unknown conditions that could not be reasonably identified through the methods described herein. (COUNTY's floor plans provided to CONSULTANT may not show all of the exact wall locations and functions indicated on those plans.)

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3. Meet with COUNTY staff every two (2) weeks or more often if necessary to review the progress of the project. CONSULTANT shall prepare brief minutes of meetings conducted. The minutes, including any direction provided by the COUNTY, shall be provided at least four (4) days in advance of the next progress meeting. Meet with the Board of State and Community Corrections (BSCC), California State Fire Marshal (CSFM), and/or local or other jurisdictional building officials as appropriate for the specific project, to review applicable building, seismic, and health codes and to confirm compliance with all code requirements applicable to the project.

4. Prepare a schematic design consisting of exterior elevations, site plans and floor plans with square footage and rough dimensions, and illustrate the function of the rooms.

5. Analyze and show on a floor plan room locations and interior circulation patterns. More than one proposed floor plan may be required.

6. Prepare a furniture and equipment layout for the user Department.

7. Prepare and submit an opinion of probable construction cost identifying significant area and system components of the project. The opinion of probable construction cost shall be submitted in the "Construction Specifications Institute/Uniform Construction Index" (CSI/UCI) format and shall identify design contingency and escalation amounts to the mid-point of the proposed construction period.

8. Monitor and keep COUNTY informed regarding the impact of design issues on the project budget. Upon the request of the COUNTY, CONSULTANT shall incorporate into the design such reasonable changes as the COUNTY deems appropriate, as a result of the COUNTY's review process and impact on the budget or opinion of probable construction cost. If CONSULTANT disagrees with the COUNTY's request, such disagreement must be registered in writing and the COUNTY will attempt to reconcile such disagreement. If it is impossible to make a reconciliation, the written disagreement will become a part of the project's record. However, CONSULTANT shall then comply with the COUNTY's request.

9. Submit and review with the COUNTY in a meeting ten (10) copies of the final schematic design. The ten (10) copies shall be submitted three (3) calendar days prior to the

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meeting. Schematic design plans submitted for review may be 11" x 17".

10. Modify or delete portions of the proposed construction work, or reduce program space at the request of the COUNTY if the schematic opinion of probable construction cost indicates increases in costs above the project budget. CONSULTANT shall adhere to any such modifications in the preparation and completion of the schematic plans, opinion of probable construction cost and specifications in work performed under Phase 1.

11. Continue to incorporate into the design in the design development phase of CONSULTANT's work, the changes required from project approval of the schematic design only if COUNTY expressly authorizes CONSULTANT in writing to proceed to the next phase.

B. Phase 2, Design Development (Preliminary Design):

The CONSULTANT shall:

1. Prepare, in this or subsequent work, plans of the site or plot plans suitable for the Site Plan Review process.

2. Prepare, in this or subsequent work, floor plans, site plans, interior elevations and details suitable to submit to the Division of State Architect for Accessible Compliance review only.

3. Provide, in this or subsequent phase of his work, all data necessary to comply with all City and County permits and land use requirements.

4. Review the progress and content of the drawings and cost estimate every two (2) weeks in meetings with the COUNTY, and prepare brief minutes thereof. CONSULTANT must monitor and keep COUNTY informed regarding the impact of design issues on the project budget. Upon the request of the COUNTY, CONSULTANT shall incorporate into the design such reasonable design and operations changes as the COUNTY deems appropriate as a result of the COUNTY's review processes and impact on the project budget or opinion of probable construction cost. If CONSULTANT disagrees with the COUNTY's request, such disagreement must be registered in writing and the COUNTY will attempt to reconcile such disagreement. If it is impossible to make a reconciliation, the written disagreement will become part of the project's record. However, CONSULTANT shall then comply with the COUNTY's

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request.

5. Prepare the design development drawings on 24" by 36" or larger sheets and opinion of probable construction cost and preliminary specifications on 8-1/2" by 11" pages. The preliminary design shall consist of floor plans, exterior elevations, cross sections and interior elevations, landscaping plan, site and plot plans and other drawings drawn to scale and showing the locations of walls, doors, windows, equipment fixtures, and other necessary items together with the requirements for the electrical, heating, plumbing, air conditioning, and other work necessary to complete the project. Construction structural framing and finish materials shall be clearly identified on design development drawings.

6. Prepare a detailed design development opinion of probable construction cost, which shall identify the construction components, building systems, and requirements of the project.

a. The opinion of probable construction cost shall be projected to the midpoint of the probable construction period and include material and labor unit costs, overhead, profit, insurance, taxes, general requirements, supervision, and difficulty factors and be organized in the CSI Unifomat or Masterformat.

b. The opinion of probable construction cost shall identify escalation and design contingency amounts, which must be approved by the COUNTY.

7. Submit originals to COUNTY for reproduction in quantities necessary for project review of the completed design development plans, specifications, and opinion of probable construction cost. This design development submittal shall also include the fixture cuts for all pieces of equipment included in the design. CONSULTANT shall meet as necessary with the COUNTY to identify and explain in detail all elements included in the Design Development document requirements as outlined herein or meet as necessary to fully explain his design scope and obtain COUNTY's approval thereof.

8. Review and confirm with COUNTY staff the construction budget.

9. Delete portions of the proposed construction work or change materials and equipment at the request of the COUNTY if the preliminary opinion of probable construction

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cost exceeds the construction budget. The CONSULTANT shall adhere to any such modifications in the preparation and completion of preliminary plans, opinion of probable construction cost, and specifications in this Phase.

10. Continue to incorporate into the design in the succeeding phases of the CONSULTANT's work the changes identified from project approval of the design development (preliminary design) and proceed with the next phase only if expressly authorized in writing by COUNTY.

11. At the completion of the Design Development Phase, submit drawings to Facility Services Manager for Site Plan Review and if required, submit accessible compliance drawings to the Division of State Architect.

C. Phase 3, Construction Documents

The CONSULTANT shall:

1. Prepare the final working drawings from the design development drawings (preliminary design), as modified by the COUNTY, on 24" by 36" sheets or larger and technical specifications on 8-1/2" by 11" pages setting forth in detail the work to be done, the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, electrical, communications, and other components of construction necessary to provide the COUNTY a complete and functional project for its intended purpose within the requirements of this Agreement.

2. Monitor and keep COUNTY informed regarding the impact of design issues on the project budget. Upon the request of the COUNTY, CONSULTANT shall incorporate into the design such reasonable changes, as the COUNTY deems appropriate as a result of the COUNTY's review processes and impact on the project budget or opinion of probable construction cost.

3. Review, comment, and/or make recommendations on the form and content of the COUNTY's General Conditions, Special Conditions, and Bid Form as they apply towards this project.

4. In addition to the technical specifications, prepare special or supplemental

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conditions for the construction contract documents. The COUNTY will package the CONSULTANT's documents with the COUNTY's approved General Conditions, Notice to Contractors calling for bids, the Bid Form, and related documents to complete the construction contract and bid specifications. Specifications for asbestos abatement, if required for a specific project, will be incorporated by the COUNTY into the bid package.

5. Include alternate bid items (preferably additive), not as separate design drawings but incorporated into the original construction drawings, to allow construction element choices or cost options by the COUNTY. The basis of award may be on the base bid only, or base bid plus additive alternatives. Additive bid items may be necessary so that the COUNTY will be able to award a construction contract not exceeding available construction funds.

6. Submit to the COUNTY the projected and final construction opinion of probable construction cost organized in the CSI Masterformat for the base bid work and alternate bid items. The opinion of probable construction cost shall be projected to the midpoint of the scheduled construction period to be scheduled by the COUNTY. Differences between the design development (preliminary) and final opinion of probable construction cost shall be explained in writing.

7. Verify the reasonableness of the estimated construction period for construction contract bidding purposes as provided by the COUNTY and identify long delivery items of materials and equipment which will impact the length of the construction contract.

8. If required for the construction of a specific project, propose and submit a recommended testing and inspection list for materials identifying type, quantity, frequency, schedule, and cost estimate of tests to be performed by an independent testing firm during construction.

9. Submit progress originals and final originals of the plans, specifications, calculations and opinion of probable construction cost for reproduction by the COUNTY. Submit four (4) copies of structural calculations.

10. If required, submit additional copies of the completed plans, calculations, and specifications to the COUNTY for transmittal to California State Fire Marshal (CSFM), Board

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of State and Community Corrections (BSCC) and applicable plan check agencies for building, seismic, and health code compliance, accessibility and approval as applicable for each project.

11. For projects requiring building permits to be issued by the County of Fresno Development Services Division, submit three (3) sets of the completed plans and calculations for plan check. The CONSULTANT shall be responsible for supplying all supporting documentation required to obtain all permits as directed by Fresno County Development Services. It is the intent that the CONSULTANT shall be responsible to provide and process all drawings and data required to issue permits and approvals by Federal, State, County, City and/or any other Government or Utility Company approvals. Review and/or permit fees shall be reimbursed to the CONSULTANT on a dollar for dollar basis with no mark-up. Fresno County Development Services fees, Division of State Architect fees and Pacific Gas and Electric fees shall be paid for directly by the COUNTY.

12. If required by approval agencies, such as the CSFM, for the construction of each project, submit to the COUNTY using the appropriate agency forms, project background information and recommended testing and inspection list for materials to be used for each project, identifying type, quantity, frequency, and schedule.

13. Modify plans as required to obtain plan check approval.

D. Phase 4, Bidding and Award:

The CONSULTANT shall:

1. Deliver to the COUNTY, two (2) weeks prior to the bid advertising date (which will be determined by COUNTY), the final completed original drawings and specifications for COUNTY printing and distribution of bid sets to interested contractors. The original drawings and specification index sheet shall be stamped by a seal with CONSULTANT and subconsultant license numbers and/or signed in accordance with the California Business and Professions Code.

2. Submit a list of general and specialty contractors who may be interested in bidding on this project.

3. Attend the pre-bid conference scheduled by the COUNTY.

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4. Submit to the COUNTY for review and approval any addenda deemed necessary. Addenda, if any, shall be submitted no later than seven (7) working days prior to the scheduled bid opening.

5. Assist the COUNTY in evaluating the base bids and alternate bid items received.

6. Delete or otherwise change portions of the proposed construction work at the request of the County if the lowest bid proposal for the construction contract exceeds the COUNTY approved opinion of probable construction cost (which will include the CONSULTANT's design contingency amount approved by the COUNTY) by 10% or more, and if the COUNTY rejects all bids. The CONSULTANT shall revise the plans and specifications to comply with such modifications and shall assist the COUNTY in obtaining new proposals from contractors at no additional cost to the COUNTY. Modifications shall be completed on a time schedule commensurate with the scope of the change and as set forth by the COUNTY.

E. Phase 5, Construction Observation:

The CONSULTANT shall:

1. Attend the preconstruction conference scheduled by the COUNTY.

2. Provide construction observation including but not limited to:

a. Making recommendations to the COUNTY on all claims of the COUNTY or construction contractor (hereinafter called "CONTRACTOR") and all other matters relating to the execution and progress of work, including interpretation of the CONSULTANT's contract documents.

b. Except for color boards, within seven (7) working days of COUNTY's request, reviewing and making recommendations for samples, schedules, shop drawings, and other submissions for general conformance with the design concept of the project and for general compliance with the plans and specifications and information provided by the CONSULTANT's contract documents.

c. Within two (2) working days of COUNTY's request for information (RFI), responding to the COUNTY Construction Engineer or CONTRACTOR, through the COUNTY

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Construction Engineer with information and/or drawings needed from CONSULTANT in order to clarify the intent of the construction contract plans and specifications of the project. CONSULTANT shall review CONTRACTOR's cost proposals for all change orders associated with any additional work as may be necessary by the RFI clarification.

d. Recommending and assisting in the preparation of necessary change orders, with supporting documentation, calculations and opinion of probable construction cost, for review and issuance of change orders by the COUNTY Construction Engineer to obtain appropriate agency acceptance and approval.

(1) Drawings and work necessary to delineate the COUNTY's changes to the construction contract or to make modifications as directed by the Board of Supervisors, which shall be made as directed by the Construction Engineer.

(2) Notwithstanding the foregoing, where the change order arises as a result of an error or omission of the CONSULTANT, the CONSULTANT shall not be compensated for time spent or cost incurred in efforts connected with the correction thereof. In such event, the costs incurred by COUNTY for rework of installed work shall be assessed upon the CONSULTANT's contract payments.

(3) Assist COUNTY, at COUNTY's express, written authorization, with any claim resolution process involving CONTRACTOR and COUNTY as specified hereunder, including serving as a witness in connection with any public hearings or legal proceeding, including dispute resolutions required by law. The parties recognize that this clause is provided as a means of expediting resolution of claims among the CONTRACTOR, COUNTY and CONSULTANT. However, it is understood the CONTRACTOR is not an intended third party beneficiary of this clause. Compensation for these services under this subparagraph III.E.2.d.(3), shall be provided under Article V.C of this Agreement, subject to the following:

(a) COUNTY may believe that CONSULTANT's work under this Agreement is connected with errors, or omissions, or problems related to a claim. As a result and upon notice of same by COUNTY, CONSULTANT's payment request for such services shall be held in suspense by COUNTY until final determination in accordance with Article IX,

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1 “Errors or Omission Claims and Disputes” of this Agreement, or by a court of law of the
2 proportion that CONSULTANT’s fault bears to the fault of all parties concerned.

3 (b) Such amounts held in suspense, pending the final determination as to
4 the CONSULTANT’s proportional fault, shall not be paid to CONSULTANT. However, the
5 appropriate percentage of such amount held in suspense shall be paid to CONSULTANT when,
6 once a final determination has been made, whether pursuant to Article IX, (“Errors or Omission
7 Claims and Disputes”) of this Agreement, or by a court of law, CONSULTANT thereafter
8 submits a proper invoice to the Facility Services Division, which then shall evaluate and
9 approve the invoice in accordance with Article V.C of this agreement.

10 3. At intervals appropriate to the stage of construction, or as otherwise deemed
11 necessary by CONSULTANT, visit the site of the project as necessary to become familiar
12 generally with the progress and quality of the work and to determine that the work is proceeding
13 in general accordance with the contract documents. CONSULTANT shall not be required to
14 make exhaustive or continuous on-site inspections but shall give direction to the Construction
15 Inspector as hereinafter more specifically provided.

16 4. CONSULTANT shall not be responsible for the CONTRACTOR’s failure to
17 carry out the construction work in accordance with the contract documents, however,
18 CONSULTANT shall immediately advise the COUNTY Representative of any known or
19 observed deviation from the contract documents. CONSULTANT shall not have control over
20 or charge of, and shall not be responsible for construction means, methods, techniques,
21 sequence, or procedure, or for the safety precautions, programs, or equipment in use of
22 connection with the work, since these are solely the CONTRACTOR’s responsibility under the
23 contract for construction.

24 5. Based on CONSULTANT’s visits to the site, CONSULTANT shall keep the
25 COUNTY informed through written reports as to the progress of the work, shall advise the
26 COUNTY of defects and deficiencies of the work of contractors, and may recommend that the
27 COUNTY reject work as failing to conform to the contract documents.

28 6. Conduct site visits which shall include, but not be limited to, on-site inspections

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to determine the dates of substantial completion and final completion and to recommend to the COUNTY its acceptance of the work, for the filing of the notice of completion and issuance of final certificate for payment.

7. Conduct a "project shakedown" and staff orientation for the completed project.

F. Phase 6, Building Systems Testing and Staff Orientation:

1. At a minimum, twenty (20) working days prior to the completion of the Project the CONSULTANT and his/her subconsultants shall begin conduction testing of all the building's mechanical, plumbing, electrical and other systems included within the design contract.

2. The CONSULTANT and his/her subconsultants shall develop a punch-list of items needing completion, repair or replacement to be delivered to the COUNTY's Project Manager. A minimum of three (3) separate punch-list visits shall be included.

3. The CONSULTANT and his/her subconsultants shall conduct a building maintenance staff orientation and training when the building systems are deemed complete and in working order by the Project Manager.

G. Phase 7, Post-Construction Services:

The CONSULTANT shall:

1. Review and forward to the COUNTY two (2) copies of Operations and Maintenance Manuals to be furnished by the CONTRACTOR.

2. Inform the COUNTY of all written guarantees required of the CONTRACTOR by the CONSULTANT's technical specifications or special conditions.

3. Return to COUNTY all plans borrowed from COUNTY by CONSULTANT.

4. Require through the construction contract specifications that record drawings be prepared by the CONTRACTOR and submitted to the COUNTY for acceptance by the Construction Inspector and CONSULTANT. However, upon completion of the project, CONSULTANT shall transfer the CONTRACTOR's record drawing changes onto the CONSULTANT's original drawings. The complete record drawing set shall remain at all times the property of the COUNTY. Changes shall be identified by cloud markings and shall identify

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date of change and its source, such as from addenda, change order, or clarification. CONSULTANT shall have no responsibility for the accuracy of information provided, either by the CONTRACTOR or by the Construction Inspector, for transfer to record drawings.

5. If construction plans have been prepared with a CAD system, record drawings in the form of .dxf or .dwg files shall be furnished and delivered to Facility Services Division in addition to reproducibles. Such .dxf or .dwg files shall be furnished on compact disk (CD-ROM).

6. Participate fully, aligned with and not adverse to the interests of the COUNTY, upon request, in the early settlement discussions of construction claims resolution issues. In the event such participation is requested of CONSULTANT, CONSULTANT shall be paid for such services as provided under the provisions of Article V of this Agreement for the time spent in such participation. All provisions of subparagraph III.E.2.d (3). of this Agreement shall apply to CONSULTANT's participation in any early settlement discussions required by this Section III.F. CONSULTANT'S participation in this process does not preclude the COUNTY's right to make an error and omissions claim against the CONSULTANT.

7. No final payment to the CONSULTANT will be issued until the services of this phase have been performed and errors and omissions attributed to the CONSULTANT have been resolved.

IV. COUNTY'S OBLIGATIONS:

The COUNTY will, for each project:

A. Compensate the CONSULTANT as provided in this Agreement.

B. Provide a "COUNTY Representative" who will represent the COUNTY and who will coordinate with the CONSULTANT as appropriate to facilitate CONSULTANT'S performance of its obligations under this Agreement. The COUNTY Representative will be the Facility Services Division Manager or his/her designated representative through award of the construction contract and the COUNTY Construction Engineer after award of the construction contract to completion of the project by the CONTRACTOR. The CONSULTANT shall communicate and coordinate with the COUNTY Representative who will provide the following

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services as appropriate for each project:

1. Provide basic design layouts and drawing layouts as may be required for each project unless otherwise agreed by the COUNTY and the CONSULTANT.

2. Prepare the title sheet for each project's plans unless otherwise agreed by the COUNTY and the CONSULTANT.

3. Loan or provide copies of any available building plans to the CONSULTANT.

4. Examine documents submitted to the COUNTY by the CONSULTANT and timely render decisions pertaining thereto.

5. Provide communication between the CONSULTANT and COUNTY officials and commissions (including user Department).

C. Give reasonably prompt consideration to all matters submitted by the CONSULTANT for approval to the end that there will be no substantial delays in the CONSULTANT's program of work. Any approval, authorization or request to the CONSULTANT given by the COUNTY will be binding upon the COUNTY under the terms of this Agreement only if it is made in writing and signed on behalf of the COUNTY by the COUNTY Representative or his/her designee.

V. COMPENSATION:

A. Total Fee:

1. Notwithstanding any other provisions in this Agreement, the maximum total fees for all CONSULTANT services performed under this Agreement shall not exceed ninety five thousand dollars (\$95,000) over the entire term of this Agreement. Fees shall be computed at the hourly and cost rates shown in Attachment B and shall not exceed agreed maximums for each phase of a project.

2. The rates listed herein are to remain in effect for the duration of this Agreement. Rates may be renegotiated annually after the first anniversary from the date of execution of this Agreement at CONSULTANT's request. CONSULTANT's request for annual rate adjustments may not exceed the Engineering News Record's Construction Cost Index or the California Consumer Price Index as published by the California Department of Industrial Relations for the

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year, whichever is lower.

B. Basic Fee:

1. Within the maximum amount of ninety five thousand dollars (\$95,000) over the entire term of this Agreement, the Basic Fee for each project shall be as mutually agreed to in writing between CONSULTANT and the Facility Services Division Manager or his/her designated representative.

2. All expenses incidental to CONSULTANT's performance of services under Article III of this Agreement shall be borne by CONSULTANT. Incidental expenses include, but may not be limited to, transportation and travel, postage and courier services, photo and duplicating services, telephone and facsimile charges, computer storage media, drawing and plotting media, printing of "check print" plans and plan sets and documents specifically required by the provisions of Article III of this Agreement.

3. CONSULTANT shall not add markup percentages or costs to subconsultant's costs or incidental costs unless expressly authorized in writing by the COUNTY.

a. If the CONSULTANT becomes aware of potential unforeseen expenses that would not be covered by the Basic Fee agreed to for a project, CONSULTANT shall inform the COUNTY in writing of the extent and nature of such expenses or services. Upon mutual agreement of the CONSULTANT and the COUNTY Representative, the scope of work and agreed fee for a project may be amended in writing to cover such unforeseen expense or cost.

C. Payments:

1. Progress payments will be made by the COUNTY upon receipt of the CONSULTANT's monthly invoices and approval by COUNTY thereof based on the COUNTY's evaluation of the completion of the respective components of the project(s). Invoices shall clearly identify the specific project, the phase of the project, the percent of the work completed, agreed maximum fee, and description of the work performed, and shall be submitted with the documentation identified in paragraph V.C.5 below. CONSULTANT shall submit separate invoices for each phase of each project for work being performed under this contract. Invoices shall be forwarded to:

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County of Fresno
Facility Services Manager
4590 E. Kings Canyon
Fresno, CA 93702

2. Unsatisfactory or inaccurate invoices will be returned to the CONSULTANT for correction and resubmittal. Payment, less retention, will be issued to CONSULTANT within forty five (45) calendar days of the date the Auditor-Controller/Treasurer-Tax Collector receives the approved invoice.

3. COUNTY is entitled to and shall withhold a five percent (5%) retention from the earned compensation in accordance with the provisions of Article VII of this Agreement.

4. An unresolved dispute over a possible negligent error or omission may cause payment of CONSULTANT fees in the disputed amount to be withheld by the COUNTY.

5. Concurrently with the invoices, the CONSULTANT shall provide on COUNTY request, pre-approved documentation, that complete payment, less a five percent (5%) retention, has been made by CONSULTANT to all subconsultants as provided herein for all previous invoices paid by the COUNTY. However, the parties do not intend that the foregoing creates in any subconsultant or subcontractor a third party beneficiary status or third party beneficiary rights, and expressly disclaim any such status or rights.

6. Final invoice, and separate invoice for retentions, shall be submitted to COUNTY no later than thirty (30) days after a specific project is completed. Payment for retentions for each project shall not be made until all services are completed for that project in accordance with the provisions of Article III.

7. In the event the COUNTY reduces the scope of a specific project, the CONSULTANT will be compensated on an hourly basis, not to exceed the agreed maximum for that authorized phase, for actual work completed and accepted by the COUNTY in accordance with the terms of this Agreement.

VI. COMPENSATION RECORDS:

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The CONSULTANT shall keep complete records for a period in accordance with the provisions of Article VIII.C showing the hours and description of activities performed by each person who works on the project and all associated costs or charges applicable to work covered by the basic fee. The CONSULTANT will be responsible for all subconsultants keeping similar records.

VII. RETENTION FROM EARNED COMPENSATION:

The COUNTY is entitled to and may withhold a five percent (5%) retention from the earned compensation of the CONSULTANT separately for each project. Such retention from earned compensation may, at the COUNTY'S option, be applied to all phases of the consultant services of a project to be provided under this Agreement, including those phases completed.

VIII. AUDITS, ACCOUNTING AND INSPECTIONS ACCESS:

A. The CONSULTANT shall establish accounting and bookkeeping practices including, but not limited to, employee time cards, payrolls, and other records of transactions including those to be paid from State Grant and Federal Grant funds in accordance with the performance of this Agreement.

B. The CONSULTANT shall at any time during regular business hours, and as often as the COUNTY may deem necessary, make available for examination by the Comptroller General of the United States, HUD, State of California or the COUNTY Auditor-Controller / Treasurer-Tax Collector, or their authorized representatives, all of CONSULTANT'S records and data with respect to matters covered by this Agreement. The CONSULTANT shall permit Federal, State, or COUNTY authorities to audit and inspect all invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to matters covered by this Agreement.

C. The CONSULTANT shall be subject to the examination and audit of the Auditor General for a period of three (3) years after final payment under this Agreement (Government Code Section 8546.7).

D. The CONSULTANT shall certify accounts when required by the COUNTY.

IX. ERRORS OR OMISSION CLAIMS AND DISPUTES:

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A. Definitions:

1. A "Consultant" is a duly licensed Architect or Engineer, or other provider of professional services, acting as a business entity (owner, partnership, corporation, joint venture or other business association) in accordance with the terms of an Agreement with the COUNTY.

2. A "Claim" is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of contract terms, payment of money, extension of time, change orders, or other relief with respect to the terms of the contract. The term "Claim" also includes other disputes and matters in question between the COUNTY and CONSULTANT arising out of or relating to the contract. Claims must be made by written notice. The provisions of Government Code Section 901, et seq., shall apply to every claim made to COUNTY. The responsibility to substantiate claims shall rest with the party making the claim. The term "Claim" also includes any allegation of a negligent error or omission by the CONSULTANT.

B. In the spirit of cooperation between the COUNTY and CONSULTANT, the following procedures are established in the event of any claim or dispute by COUNTY or CONSULTANT alleging a negligent error, act, or omission.

1. Claims, disputes or other matters in question between the parties, arising out of or relating to this Agreement, shall not be subject to arbitration, but shall be subject to the following procedures.

2. The Facility Services Manager or his/her designated representative and CONSULTANT shall meet and confer and attempt to reach agreement on any dispute, including what damages have occurred, the measure of damages and what proportion of damages, if any, shall be paid by either party. The parties agree to consult and consider the use of mediation or other form of dispute resolution prior to resorting to litigation.

3. If the COUNTY and CONSULTANT cannot reach agreement under the immediately preceding paragraph IX.B.2, the disputed issues may, upon concurrence by all parties, be submitted to a panel of three (3) for a recommended resolution. The

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

CONSULTANT and the COUNTY shall each select one (1) member of the panel, and the third member shall be selected by the other two panel members. The discovery rights provided by California Code of Civil Procedure for civil proceedings shall be available and enforceable to resolve the disputed issues. Either party requesting this dispute resolution process shall, when invoking the rights to this panel, give to the other party a notice describing the claims, disputes and other matters in question. Prior to twenty (20) days before the initial meeting of the panel, both parties shall submit all documents such party intends to rely upon to resolve such dispute. If it is determined by the panel that any party has relied on such documentation, but has failed to previously submit such documentation on a timely basis to the other party, the other party shall be entitled to a twenty (20) -day continuance of such initial meeting of the panel. The decision by the panel is not a condition precedent to arbitration, mediation or litigation.

4. Upon receipt of the panel's recommended resolution of the dispute issues, the COUNTY and the CONSULTANT shall again meet and confer and attempt to reach agreement. If the parties still are unable to reach agreement, each party shall have recourse to all appropriate legal and equitable remedies.

C. The procedures to be followed in the resolution of claims and disputes may be modified at any time by mutual agreement of the parties hereto.

D. The CONSULTANT shall continue to perform its obligations under this Agreement pending resolution of any dispute, and the COUNTY shall continue to make payments of all undisputed amounts due under this Agreement.

E. When a claim by either party has been made alleging the CONSULTANT's negligent error, act, or omission, the COUNTY Facility Services Manager or his/her designated representative and the CONSULTANT shall meet and confer within twenty-one (21) days after the written notice of the claim has been provided.

X. JOINDER OF PARTIES:

The CONSULTANT, the CONSULTANT's consultants of any tier, subcontractors of any tier, suppliers and construction lenders shall all be bound by the dispute resolution provisions of this Agreement, and immediately upon demand of COUNTY or CONSULTANT,

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

shall participate in and shall become parties to the dispute resolution process, provided they have signed any document that incorporates or refers to the dispute resolution provisions of this Agreement. Failure of CONSULTANT, whether intended or inadvertent, to ensure that such nonparties have signed such a document shall inure only to CONSULTANT's detriment, if any there be. COUNTY shall not suffer a detriment by CONSULTANT's action or inaction in this regard. If such a party after due notice fails to appear at and participate in the dispute resolution proceedings, the panel established in accordance with the provisions of paragraph IX.B.3 shall make a decision based on evidence introduced by the party or parties who do participate.

XI. CONSULTANT'S OBLIGATIONS RELATING TO CONSTRUCTION CLAIMS:

A. The CONSULTANT will review and analyze construction contract claims and recommend resolution of them as soon as possible following receipt of demand by COUNTY.

B. Within a reasonable time after receipt of a claim, the CONSULTANT shall provide a written analysis of the claim to the COUNTY, signed by the CONSULTANT and any affected subconsultants. The written analysis shall include the CONSULTANT's professional opinion of the responsibility for payment of the claim, with supporting facts and documentation. A copy of the written analysis shall be provided to the respective insurance adjusters for CONSULTANT and any affected subconsultant.

C. Upon receipt of a claim, the CONSULTANT may also take one (1) or more of the following actions, within ten (10) days of receipt of a claim:

1. Request additional supporting data from the claimant, requiring that such data be supplied within ten (10) days of the request;

2. Submit a schedule to the parties indicating when the CONSULTANT expects to respond to the claim, which schedule shall not exceed thirty (30) days from CONSULTANT's original receipt of the claim;

3. Recommend rejection of the claim in whole or in part, stating the reasons for such rejection;

4. Recommend approval of the claim by the other party, or

5. Suggest a compromise.

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

D. In every case, CONSULTANT shall provide its recommended resolution of a claim within thirty (30) days from the original receipt of claim, unless the CONSULTANT obtains COUNTY's prior written approval.

XII. INDEPENDENT CONTRACTOR:

A. In performance of the work, duties, and obligations assumed by CONSULTANT under this Agreement, it is mutually understood and agreed that CONSULTANT, including any and all of CONSULTANT's officers, agents and employees, will at all times be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner or associate of the COUNTY. Furthermore, COUNTY shall have no right to control or supervise or direct the manner or method by which CONSULTANT shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONSULTANT is performing its obligations in accordance with the terms and conditions thereof. CONSULTANT and COUNTY shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

B. Because of its status as an independent contractor, CONSULTANT shall have absolutely no right to employment rights and benefits available to COUNTY employees. CONSULTANT shall be solely liable and responsible for providing to, or on behalf of its employees all legally required employee benefits. In addition, CONSULTANT shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONSULTANT's employees, including compliance with Social Security, withholding, and all other regulations governing such matters. It is acknowledged that during the term of this Agreement CONSULTANT may be providing services to others unrelated to the COUNTY or to this Agreement.

XIII. PARTIES BOUND BY AGREEMENT:

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

This Agreement shall be binding upon the COUNTY, the CONSULTANT, and their respective successors in interest, legal representatives, executors, administrators, and assigns with respect to all covenants as set forth herein.

XIV. REQUIRED APPROVALS:

It is understood that the CONSULTANT shall not assign, sublet, subcontract, or transfer any of CONSULTANT's rights, duties, or obligations under this Agreement, without the prior express, written consent of the Director of Internal Services/Chief Information Officer.

XV. COMPLIANCE WITH LAWS:

A. CONSULTANT shall comply with all Federal, State, and local laws, ordinances, regulations, and Fresno County Charter Provisions in effect at the time of CONSULTANT's performance of the professional services to be provided hereunder.

B. CONSULTANT shall submit a current version of its Illness and Injury Prevention Plan (IIPP), applicable safety programs and contact information for the CONSULTANT's responsible person for these programs to the COUNTY Representative at the time this AGREEMENT is signed by the CONSULTANT. Throughout the term of this AGREEMENT, Consultant shall provide updates to the safety plans and programs to the COUNTY Representative as they are implemented.

XVI. GOVERNING LAW:

A. Any controversy or claim arising out of or relating to this Agreement which cannot be amicably settled without court action shall be litigated either in a State court for Fresno County, California, or in the U.S. District Court for the Eastern District of California, located in Fresno County.

B. The rights and obligations of the parties and all interpretations and performance of this Agreement shall be governed in all respects by the laws of the State of California.

XVII. AMENDMENTS:

Any changes to this Agreement requested either by the COUNTY or CONSULTANT may only be effected if mutually agreed upon in writing by duly authorized representatives of

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

the parties hereto. This Agreement shall not be modified or amended, nor shall any rights of a party hereto be waived, except by such in writing.

XVIII. AUTHORITY:

A. Each individual executing this Agreement on behalf of CONSULTANT hereby covenants, warrants, and represents:

1. That he or she is duly authorized to execute and deliver this Agreement on behalf of CONSULTANT; and that this Agreement is binding upon CONSULTANT in accordance with its terms; and

2. That if CONSULTANT is a corporation, CONSULTANT is a duly organized and legally existing corporation in good standing in the State of California.

XIX. HOLD HARMLESS:

A. CONSULTANT shall defend, hold harmless and indemnify COUNTY, its officers, agents, and employees, against the payment of any and all costs and expenses (including reasonable attorney fees and court costs), damages, claims, suits, losses, and liability for bodily and personal injury to or death of any person or for loss of any property resulting from or arising out of any negligent or wrongful acts, errors or omissions of CONSULTANT, its officers, agents, and employees, in performing or failing to perform any work, services, or functions under this Agreement.

B. COUNTY and CONSULTANT hereby declare their mutual intent to cooperate in the defense of any claim, suit, or other action alleging liability, arising from the performance or failure to perform of any COUNTY construction contractor or subcontractor in connection with any project for which CONSULTANT has been retained under Article III above. Such cooperation may include an agreement to prepare and present a cooperative defense after consultation with CONSULTANT's professional liability insurance carrier.

XX. LIABILITY INSURANCE:

A. Prior to commencing the duties under the Agreement with the COUNTY, the CONSULTANT shall furnish the COUNTY, at no additional cost to the COUNTY, certificates for the following insurance policies which shall be kept in force during the term of the

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

Agreement (i.e., until the Agreement is terminated or it expires), and for such additional time as may be specified herein with respect to a particular type of policy.

1. Commercial General Liability Insurance or Comprehensive General Liability Insurance, naming the COUNTY as an additional insured, with limits of not less than one million dollars (\$1,000,000) per occurrence, with an annual aggregate of not less than two million dollars (\$2,000,000).

2. Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than two hundred fifty thousand dollars (\$250,000) per person, five hundred thousand dollars (\$500,000) per accident and for property damages of not less than fifty thousand dollars (\$50,000), or such coverage with a combined single limit of five hundred thousand dollars (\$500,000).

3. Worker's Compensation insurance policy as required by the California Labor Code.

4. Professional Liability Insurance:

a. Professional Liability Insurance with limits of not less than one million dollars (\$1,000,000) per occurrence, three million dollars (\$3,000,000) annual aggregate, and with a deductible not to exceed fifty thousand dollars (\$50,000). A deductible greater than fifty thousand dollars (\$50,000) will be acceptable to the COUNTY receiving satisfactory, certified information of the CONSULTANT's ability to support such a deductible. The financial ability to support the difference between fifty thousand dollars (\$50,000) and the greater deductible amount requested by the CONSULTANT shall be guaranteed by any of the following:

1). Cash deposit with a trustee bank.

2). Irrevocable letter of credit issued by a bank for the same time period as specifically referenced in subparagraph XX.A.4.c herein.

3). Withholding payment under terms of the Agreement for the same time period as specifically referenced in subparagraph XX.A.4.c. herein.

b. CONSULTANT and subconsultants shall make full disclosure, in writing to the COUNTY, of all pending and open claims and disputes during the course of this Agreement

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

that affect the specified aggregate limits of the Professional Liability Insurance policy.

c. Professional Liability Insurance shall be kept in force for a minimum of two (2) years past the date of final payment to CONSULTANT, and including the full and final resolution of all claims, disputes, and matters in question regarding the project.

d. In the event that CONSULTANT voluntarily changes, or involuntarily changes due to circumstances beyond its control, its Professional Liability Insurance policy carrier during the period such coverage is required to be in force (as specified in the immediately preceding subparagraph c. of this Article XX, Section A, Paragraph 4), such new policy shall include prior acts coverage retroactive, at least, to the date of execution of this Agreement. CONSULTANT may, at its option and expense, purchase supplemental or "tail" coverage from the former policy carrier, negotiate a retroactive reporting date with the new policy carrier for claims incurred but not reported as of the date of change in policy carrier, and shall in any event maintain Professional Liability Insurance in a manner that provides continuous coverage to the COUNTY throughout the term of this Agreement, and for a period of two (2) years past the issuance of final payment to the CONSULTANT.

B. CONSULTANT shall give COUNTY at least thirty (30) days written advance notice of any expiration, cancellation or reduction in the coverage of any of the aforesaid policies.

C. The COUNTY, its officers, agents and employees, individually and collectively, shall be named as an additional insured under the policy for Commercial General Liability Insurance or Comprehensive General Liability Insurance, but only insofar as the operations under this Agreement are concerned. Such coverage of COUNTY as additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by the COUNTY, its officers, agents, and employees, shall be excess only and not contributing with insurance provided under the CONSULTANT's policies herein.

D. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

E. All policies shall be issued by admitted insurers licensed to do business in the State of California and possessing a current A.M. Best, Inc. rating of A FSC VII or better.

XXI. OWNERSHIP OF DOCUMENTS:

A. CONSULTANT understands and agrees that COUNTY shall retain full ownership rights of the drawings and the work-product of CONSULTANT for each project, to the fullest extent permitted by law. In this regard, CONSULTANT acknowledges and agrees that CONSULTANT's services are on behalf of COUNTY and are "works made for hire," as that term is defined in copyright law, by COUNTY; that the drawings and work-product to be prepared by CONSULTANT are for the sole and exclusive use of COUNTY, and shall be the sole property of COUNTY and its assigns, and the COUNTY and its assigns shall be the sole owner of all patents, copyrights, trademarks, trade secrets and other contractual and intangible rights of any kind or nature in connection therewith; that all the contractual or intangible rights of any kind or nature, title, and interest in and to the drawings and work-product will be transferred to COUNTY by CONSULTANT, and CONSULTANT will assist COUNTY to obtain and enforce patents, copyrights, trademarks, trade secrets, and other contractual and intangible rights relating to said drawings and work-product; that COUNTY shall be and become the owner of such drawings and work product, free and clear of any claim by CONSULTANT or anyone claiming any right through CONSULTANT. CONSULTANT further acknowledges and agrees that COUNTY's ownership rights in such drawings and work product shall apply regardless of whether such drawings or work product, or any copies thereof, are in the possession of CONSULTANT, or any other person, firm, corporation, or entity. For the purpose of this Agreement the terms "drawings and work-product" shall mean all reports and study findings commissioned to develop the design of each project, drawings and schematic or preliminary design documents of each project, certified reproducibles of the original final construction contract drawings of each project, specifications of each project, the approved opinion of probable construction cost of each project, record drawings of each project, as-built plans of each project, and discoveries, developments, designs, improvements, inventions, formulas, processes, techniques, or specific know-how and data generated or conceived or

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

reduced to practice or learning by CONSULTANT, either alone or jointly with others, that result from the tasks assigned to CONSULTANT by COUNTY under this Agreement. County acknowledges and agrees that details, concepts, ideas, devices, configurations, and designs previously developed or used by the CONSULTANT, or developed by the CONSULTANT without COUNTY compensation, shall remain the property of the CONSULTANT and use is granted to COUNTY only for the specific project undertaken under this agreement.

B. If a project is terminated prior to completion of the construction document phase of any project under Article III, a reproducible copy and electronic files of documents as completed at the time of termination of the project shall be submitted by CONSULTANT to the COUNTY, which may use them to complete each project in future phases.

C. If the project is terminated at the completion of the construction document phase of any project, a reproducible copy and electronic files of final construction contract drawings (both .dwg and .plt files), specifications, and approved opinion of probable construction cost shall be submitted by CONSULTANT to COUNTY.

D. Documents, including drawings and specifications, prepared by CONSULTANT for any project pursuant to this Agreement are not intended or represented to be suitable for reuse by COUNTY or others on extensions of the services provided for that project or any other project. Any use of completed documents for other projects and/or any use of uncompleted documents will be at COUNTY's sole risk and without liability or legal exposure to CONSULTANT.

E. COUNTY has requested that certain machine readable information and CAD data on construction documents be provided by CONSULTANT for each project under this Agreement. Such machine readable information and CAD data are more specifically described in Article III. CONSULTANT shall not be liable for claims, liabilities or losses arising out of, or connected with:

1. The modification or misuse by COUNTY, or anyone authorized by COUNTY, of such machine readable information and CAD data; or

2. Decline of accuracy or readability of machine readable information and CAD

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

data due to inappropriate storage conditions or duration; or

3. Any use by COUNTY, or anyone authorized by COUNTY, of such machine readable information and CAD data for additions to any such project or for the completion of any such project by others, or for other projects.

XXII. TERM AND TIME OF COMPLETION:

A. Upon request of the Facility Services Division Manager or his/her designated representative, the CONSULTANT shall submit for the Facility Services Division Manager or his/her designated representative's approval, schedules for the performance of the CONSULTANT's services which may be adjusted by mutual agreement as the projects proceed, and shall include allowances for periods of time required for the COUNTY's review and approval of submissions by authorities having jurisdiction over the projects. Time limits established by these schedules approved by Facility Services Division Manager or his/her designated representative shall not, except as provided in this Agreement, be exceeded by the CONSULTANT.

B. CONSULTANT shall diligently proceed with the agreed scope of services and shall provide such services in a timely manner. Failure of the CONSULTANT to meet any deadline listed in the above-referenced schedules once such failure continues more than seven (7) calendar days past the specified completion date (unless the delay is attributable to the COUNTY or State), is sufficient cause to immediately terminate this Agreement, at the option of the COUNTY, in accordance with Section XXIII.C.

C. This Agreement shall become effective upon approval by COUNTY's Purchasing Manager on the date first set forth above, for a base term of three (3) years, and shall expire at the conclusion of said base term unless extended by COUNTY for a maximum of two (2) additional one-year periods upon provision of written notice by the Director of the Internal Services/Chief Information Officer or his/her designee, or unless it is terminated earlier in accordance with the provisions of Article XXIII.

XXIII. TERMINATION OF AGREEMENT:

A. This Agreement may be terminated without cause at any time by the COUNTY upon

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

thirty (30) calendar days written notice. If the COUNTY terminates this Agreement, the CONSULTANT shall be compensated for services satisfactorily completed to the date of termination based upon the compensation rates and subject to the maximum amounts payable agreed to in Article V, together with such additional services satisfactorily performed after termination which are expressly authorized by the COUNTY Representative in order to conclude the work performed to date of termination.

B. If the CONSULTANT purports to terminate the Agreement, or otherwise refuses to perform pursuant to the Agreement, for reasons other than material breach by the COUNTY, the CONSULTANT shall reimburse the COUNTY, up to a maximum of seven thousand, five hundred dollars (\$7,500) for the actual expense of issuing a Request For Proposal (RFP), engaging a new CONSULTANT, and the new CONSULTANT's cost in becoming familiar with the previous CONSULTANT's design.

C. The COUNTY may immediately suspend or terminate this Agreement in whole or in part, where in the determination of the COUNTY there is:

1. An illegal or improper use of funds;
2. A failure to comply with any term of this Agreement;
3. A substantially incorrect or incomplete report submitted to the COUNTY;
4. Improperly performed service.

D. In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default which may then exist on the part of the CONSULTANT, nor shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of the CONSULTANT the repayment to the COUNTY of any funds disbursed to the CONSULTANT under this Agreement, which, in the judgment of the COUNTY and as determined in accordance with the procedures of Article IX ("Errors or Omissions Claims and Disputes"), were not expended in accordance with the terms of this Agreement. The CONSULTANT shall promptly refund any such funds upon demand.

E. The terms of this Agreement, and the services to be provided thereunder, are

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated at any time by giving the CONSULTANT thirty (30) days advance written notice.

XXIV. DISCLOSURE OF SELF-DEALING TRANSACTIONS

A. This provision is only applicable if the CONSULTANT is operating as a corporation (a for-profit or non-profit corporation) or if during the term of this AGREEMENT, the CONSULTANT changes its status to operate as a corporation.

B. Members of the CONSULTANT'S Board of Directors shall disclose any self-dealing transactions that they are a party to while the CONSULTANT is providing goods or performing services under this AGREEMENT. A self-dealing transaction shall mean a transaction to which the CONSULTANT is a party and in which one or more of its directors has a material financial interest. Members of the CONSULTANT'S Board of Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a Self-Dealing Transaction Disclosure Form (attached as Exhibit 1) and incorporated herein by this reference); and submitting it to the COUNTY prior to commencing with the self-dealing transaction or immediately thereafter.

XXV. ENTIRE AGREEMENT:

This Agreement constitutes the entire agreement between the COUNTY and the CONSULTANT with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly included in this Agreement.

XXVI. SEVERABILITY:

Should any provision herein be found or deemed to be invalid, this Agreement shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this Agreement are hereby declared to be severable.

XXVI. COUNTERPARTS:

This Agreement may be executed in any number of counterparts (which may be

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

facsimile or pdf e-mail counterparts followed by originals), each of which will be deemed an original and all, taken together, will constitute one and the same instrument.

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ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed
as of the day and year first above written.


COUNTY OF FRESNO

BY: 
GARY CORNUELLE, PURCHASING
MANAGER

APPROVED AS TO LEGAL FORM:
DANIEL C. CEDERBORG, COUNTY
COUNSEL

BY: 
DEPUTY COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM
VICKI CROW, C.P.A.
AUDITOR-CONTROLLER/
TREASURER-TAX COLLECTOR

BY: 
DEPUTY

FOR ACCOUNTING USE ONLY:
ISD – Facility Services
Fund: 1045
Subclass: 10000
Dept: 8935
Acct: 7295

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

CONTRACTOR TO COMPLETE:

Company:

PAUL HALATIAN ARCHITECTS, INC.

Type of
Entity:

☐ Individual

☐ Limited Liability Company

☐ Sole Proprietorship

☐ Limited Liability Partnership

☒ Corporation

☐ General Partnership

PAUL HALATIAN - PRESIDENT

8/17/16

Print Name and Title

Date

Signature (In Blue Ink)

PAUL HALATIAN - SECRETARY

8/17/16

Print Name and Title

Date

Signature (In Blue Ink)

389 CLOVIS AVE - #200

CLOVIS

CA

93012

Address

City

State

Zip

(951) 297-7950

(951) 297-7950

paulh@halyanarch.com

TELEPHONE NUMBER

FAX NUMBER

E-MAIL ADDRESS

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

CONTRACTOR TO COMPLETE:

Company:

Muratore Associates

Type of
Entity:

ARCHITECTURAL

☐ Individual

☐ Limited Liability Company

☒ Sole Proprietorship

☐ Limited Liability Partnership

☐ Corporation

☐ General Partnership

SAHNDRA MURATORE

26 July 2016

Print Name and Title

Date

Sandra Muratore

Signature (In Blue Ink):

Print Name and Title

Date

Signature (In Blue Ink):

5250 N. Sequoia

Fresno

CA

93711

Address

City

State

Zip

554-31-6879

()

Sandra e

TELEPHONE NUMBER

FAX NUMBER

E-MAIL ADDRESS

muratoreassociates.com

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

CONTRACTOR TO COMPLETE:

Company: KODAMA DISEÑO

Type of

Entity: A CALIFORNIA CORPORATION

☐ Individual

☐ Limited Liability Company

☐ Sole Proprietorship

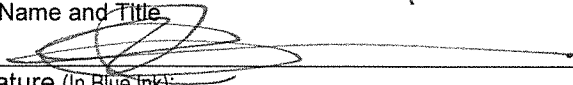
☐ Limited Liability Partnership

☒ Corporation

☐ General Partnership

STEVEN KODAMA, PRESIDENT
Print Name and Title

7/14/16
Date


Signature (In Blue Ink):

Print Name and Title

Date

Signature (In Blue Ink):

Address

City

State

Zip

()

()

TELEPHONE NUMBER

FAX NUMBER

E-MAIL ADDRESS

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

CONTRACTOR TO COMPLETE:

Company: INTEGRATED DESIGNS BY SOMAM, INC.

Type of

Entity:

☐ Individual

☐ Limited Liability Company

☐ Sole Proprietorship

☐ Limited Liability Partnership

☒ Corporation

☐ General Partnership

PETER MOGENSEN VICE-PRESIDENT

Print Name and Title

Date

Signature (In Blue Ink):

SHARON ASHIDA CHIEF FINANCIAL OFFICER

Print Name and Title

Date

Signature (In Blue Ink):

6011 N. FRESNO STR. STE. 130 FRESNO CA. 93710

Address

City

State

Zip

(559) 436-0881

(559) 436-0887

pmogensen@somam.com

TELEPHONE NUMBER

FAX NUMBER

E-MAIL ADDRESS

RECEIVED PURCHASING DEPT
2016 JUL 22 PM 1:05

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

ATTACHMENT A

PARTICIPATING CONSULTANTS

<u>CONSULTANT</u>	<u>ADDRESS</u>	<u>*Give & Receive Notices</u>
Integrated Designs	6011 N. Fresno St., Ste. 130 Fresno, CA 93710	Pete Mogensen Principal (559) 436-0881 pmogensen@soman.com
Kodama Diseno Inc.	570 Tenth Street Oakland, CA 94607	Steven Y Kodama, Principal (510) 986-0696 skodama@kodamadiseno.com
Muratore Associates	5250 N. Sequoia Ave. Fresno, CA 93711	Sandra Muratore, Owner/Principal (559) 431-6879 info@muratoreassociates.com
Paul Halajian Architects	389 Clovis Avenue, Suite 200 Clovis, CA 93612	Paul Halajian, President (559) 297-7900 paulh@halajianarch.com
SIM Architects	7591 N. Ingram, Ste. 101 Fresno, CA 93711	John Smith, AIA (559) 448-8400 jsmith@simarchitects.com

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

ATTACHMENT B

Integrated Designs

Principal	\$180
Professional	\$150
Sub-Professional	\$90
Clerical	\$60

Kodama Diseno

Principal	\$155
Senior Associate	\$125
Associate	\$115
Project Manager	\$105
Staff Level I	\$95
Staff Level II	\$85
Administrative Staff	\$65
Consultants are billed at 1.15 times cost	Reimbursable Expenses are billed at 1.15 times cost

Muratore Associates

Principal Architect	\$175
Designer/Drafter	\$100
Reimbursable Expenses are billed at 1.1 times cost	

Paul Halajian

Principal Architect	\$175
Project Architect	\$140
Designer	\$110
CADD Tech	\$85
Clerical	\$55

SIM Architects

Architect/Partner	\$160
Associate	\$120
Interior Designer	\$90
Project Manager	\$80
CAD Operator	\$75
Clerical	\$60

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

EXHIBIT 1

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

(1) Company Board Member Information:

Name:		Date:	
Job Title:			

(2) Company/Agency Name and Address:

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(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):

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(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):

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(5) Authorized Signature

Signature:		Date:	
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CONTRACT INFORMATION SHEET

DATE: 09/20/2016

Contract No.: P-16-424-S Vendor Number: 0000004928
Contract Title: Architectural Services Name/Address: S.I.M. Architects, Inc
7591 N. Ingram Avenue # 101
Fresno, CA 93711
Contract Period: 07/08/2016 - 07/07/2019 Representative: John Smith
Using Agencies: Facility Services Phone No.: 559-448-8400
Email: jsmith@simarchitects.com
Terms: Net 45 Days Bid Reference No.: RFSQ 907-5392
Total Contract Amt.: \$ 95,000.00
Buyer Name: Darren Howard

Requisition No: 1321701037 Org: 8935
Supersedes: _____

☒ NEW ☐ RENEWAL ☐ ADJUSTMENT ☐ REFERENCE
☒ TICK DATE 02/15/2019

DESCRIPTION: This Master Agreement provides Architectural Consultant Services to Facility Services.
09/20/2016: Add S.I.M. Architects, Inc to master agreement.

SPECIAL INSTRUCTIONS: _____

DISTRIBUTION:	Completed By:	Date:	Completed By:	Date:
DEPARTMENT: <u>Facility Services</u>	_____	_____	_____	_____
REQUISITIONER: <u>Selina Sanchez</u>	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

ARCHITECTURAL CONSULTANT SERVICES AGREEMENT

CONTRACTOR TO COMPLETE:

Company: S. I. M. Architects, Inc.

Type of Entity:

☐ Individual

☐ Limited Liability Company

☐ Sole Proprietorship

☐ Limited Liability Partnership

☒ Corporation

☐ General Partnership

Print Name and Title

Date

Signature (In Blue Ink):

Print Name and Title

Date

Signature (In Blue Ink):

7591 N. Ingram Avenue #101

Fresno
City

CA 93711
State Zip

(559) 448-8400

(559) 448-8467
FAX NUMBER

jsmith@simarchitects.com
E-MAIL ADDRESS