

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # *B-9

Urgent

Routine

AGENDA DATE April 6, 2010

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Award a Contract for Professional Architectural Design Services for the Development of a Comprehensive Scope of Work for Phase III Tenant and Site Improvements at the Nick W. Blom Salida Library to Pacific Design Associates, Inc., and Related Actions

STAFF RECOMMENDATIONS:

1. Authorize the Chief Executive Officer to award a contract for professional architectural design services for the development of a comprehensive scope of work for Phase III tenant and site improvements needed at the Nick W. Blom Salida Library to Pacific Design Associates, Inc. of Modesto, California for the lump sum amount not to exceed \$185,652.
2. Authorize the Project Manager to issue a Notice to Proceed contingent upon receipt of proper insurance.
3. Authorize the release of Request for Proposals (RFP) for professional services such as Surveyor and Soils Engineer as long as they are within the approved budget.

(Continued on Page 2)

FISCAL IMPACT:

On October 27, 2009, the Board of Supervisors authorized the Chief Executive Office to issue a Request for Proposal for professional architectural design services for the development of a comprehensive scope of work for Phase III tenant and site improvements at the Nick W. Blom Salida Library, and authorized the Project Manager to accept and open proposals on December 9, 2009, immediately after 2:00 p.m., and return to the Board to recommend an award.

(Continued on Page 2)

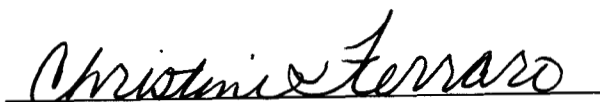
BOARD ACTION AS FOLLOWS:

No. 2010-189

On motion of Supervisor O'Brien, Seconded by Supervisor DeMartini
 and approved by the following vote,
 Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Grover
 Noes: Supervisors: None
 Excused or Absent: Supervisors: None
 Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) _____ Denied
- 3) _____ Approved as amended
- 4) _____ Other:

MOTION:



ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk

File No.

STAFF RECOMMENDATIONS: (Continued)

4. Authorize the Project Manager to take actions necessary to manage the Architectural Design Phase including contracts for professional services, and amend and increase an existing Personal Services Contract for existing contract project management staff as necessary so long as the costs are allocated and within the project budget as approved by the Board of Supervisors.

FISCAL IMPACT: (Continued)

On December 9, 2009, seventeen proposals were received and opened from:

- Interactive Resources of Point Richmond, California
- Bahr Architects of San Francisco, California
- Williams + Paddon Architects and Planners, Inc. of Roseville
- California, Kitchell of Sacramento, California
- NTD Architecture of Auburn, California
- Steven Gaffney Architecture, Inc. of Santa Ana, California
- WLC Architects, Inc. of Folsom, California
- Pacific Design Associates, Inc. of Modesto, California
- Dean F. Unger, AIA, Inc. of Sacramento, California
- Salas O'Brien of Oakland, California
- The HR Group Architects of Sacramento, California
- DL Smith Design Studio, Inc. of Modesto, California
- Peabody Engineering of Sacramento, California
- ANOVA Architects of Sacramento, California
- LDA Partners, LLP of Stockton, California
- Ray House Architects of Sunnyvale, California
- Lionakis of Modesto, California
- API Planning & Architecture of Modesto, California.

At that time, staff from the Library, Chief Executive Office, and Chief Executive Office Capital Projects conducted an extensive review of all proposals received five firms, API Planning and Architecture, HR Group Architects, Pacific Design Associates, Inc., ANOVA Architects, and LDA Partners were short listed for interviews.

On January 7, 2010, a separate interview team comprised of staff from Library, Chief Executive Office, and Chief Executive Office Capital Projects, and General Services Agency Facilities Maintenance conducted interviews with the five finalists. After the interviews, extensive background and reference checks were conducted. As a result, the firm of Pacific Design Associates, Inc of Modesto, California, was the respondent who scored the highest and was determined to provide the most responsive proposal for the project.

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At this time the Chief Executive Office is returning to the Board for approval to award a contract for professional architectural design services for the development of a comprehensive scope of work for Phase III tenant and site improvements needed at the Nick W. Blom Salida Library to Pacific Design Associates, Inc. of Modesto, California for the lump sum amount not to exceed \$185,652. Staff is also requesting that the Board authorize the release of Request for Proposals (RFP) for professional services such as Surveyor and Soils Engineer as long as they are within the approved budget; and authorize the Project Manager to take actions necessary to manage the Architectural Design Phase including contracts for professional services, and amend and increase an existing Personal Services Contract for existing contract project management staff as necessary so long as the costs are allocated and within the project budget as approved by the Board of Supervisors. The contract amendment for an existing CEO Personal Services Contract staff member was included in the Proposed Budget for \$75,000. The amendment is recommended at this time to increase the contract limit consistent with maintaining the capital projects workload within existing staff resources only. There is existing and planned funding for this and all project related expenses in the approved project budget.

The total estimated cost through the architectural design phase is estimated not to exceed \$226,359. The overall improvement project is estimated to cost \$2.5 million to \$3 million and will be funded by Public Facilities fees set aside for this purpose. The project will be funded by the Library 2009 Nick W. Blom Regional Salida Library fund balance of \$1.4 million and from Library PFF up to \$1.7 million from the Library PFF fund previously approved for use by the PFF Committee on November 19, 2009. Recommendations for final scope, design and actual cost estimates will be returned to the Board of Supervisors prior to seeking bids for construction.

DISCUSSION:

Background

In May of 2003, the County opened the Nick W. Blom Salida Regional Library. The Board of Supervisors approved the acquisition and renovation of the facility and was completed in two phases at a cost to date of \$7.4 million. During Phase I, \$6.9 million was spent on the acquisition of the land and building and remodeling and refurbishing the new library facility. During Phase II, \$580,254 was spent on critically needed roof repairs.

The County financed \$6.6 million through the issuance of the 2004B Certificate of Participation for the project. Pursuant to the reimbursement resolution, loan proceeds of \$4.2 million were used to reimburse the Library for the original costs for the acquisition of the land and building. The remaining \$2.4 million was redeposited into

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the Library Public Facility Fees (PFF) fund to reimburse PFF for Phase I and Phase II renovations.

At the completion of the original renovation to open this regional library branch, it was planned that a future phase would be necessary to remodel the existing staff restrooms and breakroom; remodel the mail building lobby and space designated as a future café/vendor area; and to make site improvements needed for the parking lot, irrigation system and site areas; as well as make modifications to the lighting and electrical systems to allow the Community Room to have the ability to independently select half of the room lighting, enabling use of multimedia presentations; and limited lighting controls at the staff entrance.

A second phase was planned to ensure that the first phase could be fully funded within funds available for the initial project, and to manage the overall delivery of several key capital projects underway at the same time, including the Gallo Center for the Arts, 12th Street Office Building and Parking Garage, and the Paradise Medical Office Remodeling Project.

The Salida Library project is necessary to fix the heating and air conditioning system, repair the deteriorating parking lot, and bring the staff restrooms up to current handicapped standards.

The existing heating and air conditioning system is very old and energy inefficient and has to be replaced. It is continually breaking down and requires parts and maintenance on an on-going basis. There will be a big reduction in energy consumption with the new system which will be a cost savings for the county. The parking lot surface is deteriorating to the point that it cannot be patched any longer and the area drains are so old that they clog up causing lakes to form around them during the slightest rain storm. The staff restrooms need to be repaired and brought up to current handicapped standards. Several rooms need to be finished (ie., ceilings, walls and carpet) that were left unfinished due to lack of funding during the phase II remodel.

The new heating and air conditioning system will provide the required level of comfort for the staff and patrons whom work and visit the library and, at a greater level of energy efficiency. The parking lot surface and drainage system is becoming a hazzard to the public and the library employees. The road widening work of Sisk Road by Cal Trans has created a circulation problem within the parking lot that also needs to be addressed. The staff restrooms are currently not useable. The staff is currently using the public restrooms in the main lobby. The unfinished rooms currently used by staff and patrons need to be finished for climate control and sound control.

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The major objectives to be completed during Phase III include the following:

- Design and remodel existing staff restrooms and break room;
- Design and remodel basic improvements to a portion of the main building lobby and space designated as a future café/vendor area;
- Site improvements to include landscaping and irrigation
- Parking Lot Improvements
- Add Canopy at Entry Doors To Future Tenant Area
- Repair or replacement of the HVAC System
- Entry Canopy

Improvements to the parking lot are related to the State Route 219 Widening Project. On April 17, 2007, the Board approved a right of way contract with the State of California for the purchase of 0.12 acres of right-of-way in front of the Nick W. Blom Salida Library, for the sum of \$197,000. Proceeds from the purchase are recommended to be allocated towards the needed parking lot, landscape and lighting improvements.

As is routine with all Capital Projects, staff is also recommending the Project Manager be authorized to take actions necessary to manage the Architectural Design Phase including contracts for professional services, and amend and increase an existing Personal Services Contract for existing contract project management staff as necessary so long as the costs are allocated and within the project budget as approved by the Board of Supervisors.

Traditionally reported in the quarterly budget reports, this action will allow the continuation of an existing full time personal services contract in the Chief Executive Office to be amended at this time in accordance with the Board's Contract reporting requirements., increasing the contract limit from \$75,000 to \$125,000, consistent with past years authorizations for this contract. There is sufficient funding planned for and available in the project budget for this expense.

POLICY ISSUES:

The Stanislaus County Free Library operates 13 branches for educational and recreational purposes. The Board should consider if approval of the project supports the Board of Supervisors' stated priorities of *A strong local economy* and *Efficient delivery of public services*.

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STAFFING IMPACT:

Existing Chief Executive Office Capital Projects staff, personal services contract staff and construction management staff will assist with the project management and coordination of the project in partnership with the Library staff.

STAFF CONTACT:

Patricia Hill Thomas, Chief Operations Officer. Telephone: (209) 525-6333

FORM OF PROFESSIONAL SERVICES AGREEMENT

This Agreement For **Professional Services** is made and entered into by and between the **County of Stanislaus** ("County") and **Pacific Design Associates, Inc.** ("Consultant"), on APR 06 2010.

Introduction

WHEREAS, the County has a need for professional services relating to the ARCHITECTURAL DESIGN of the **Nick W. Blom Salida Regional Library, Phase III Tenant & Site Improvements**; and

WHEREAS, the Consultant is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. Scope of Work

1.1 Services: The Consultant shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Appendix A (Scope of Work)** which is attached hereto and, by this reference, made a part hereof.

1.2 Ownership of Records: Documents and drawings shall consist of all documents, original and reproducible tracings, plans and specifications, calculations, sketches, electronic data, and renderings prepared by or under the direction and control of the Architect ("A-E Documents"). These A-E Documents and copyright shall be the property of the County. The Architect may retain copies of A-E Documents for its records. County agrees to indemnify, defend and hold Architect harmless from and against any claims, costs, losses and damages resulting from the County's reuse or misuse of such documents.

1.3 Schedule: Services and work provided by the Consultant under this Agreement will be performed in a timely manner in accordance with the provisions of **Appendix A (Scope of Work)**, paragraph 2, Schedule of Services and Scheduling, and with the Master Schedule set forth in **Appendix B (Schedule)**.

1.4 Laws: The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions. The Consultant represents and warrants that it will perform its work in accordance with generally accepted industry standards and practices for the profession or professions that are used in performance of this Agreement and that are in effect at the time of performance of this Agreement.

1.5 Subconsultants: If the Consultant deems it appropriate to employ a subconsultant in connection with the performance of the services under this Agreement, the Consultant will so advise the County and seek the County's prior approval of such employment.

2. Compensation

2.1 Total Compensation: The total compensation to the Architect for each phase option shall be on a lump sum basis. Payment shall be as specified in section 2.3, Monthly statements.

Option 1, Schematic Design Option including Basic Services and ODC's:	\$50,250
Option 2, Construction Documents Option including Basic Services and ODC's:	\$111,684
Option 3, Bid Option including Basic Services and ODC's:	\$8,518
Option 4, Construction Administration Option including Basic Services and ODC's:	\$15,200
TOTAL ALL FOUR PHASES	<u>\$185,652</u>

2.2 Additional Compensation: Except as expressly provided in this Agreement, Consultant shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 Monthly Statements: The Consultant shall provide the County with a monthly or a quarterly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which the County shall pay within 30 days of the date each invoice is approved by the County. The statement will generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, and a reasonable itemization of costs.

2.3.1 Retention: The County shall pay the Architect for services rendered in an amount not to exceed the option totals set forth in Section 2.1, less 10% retention in accordance with Civil Code Section 3320. County and Architect may enter into an escrow agreement in lieu of retention in accordance with the form set forth in Public Contract Code 22300. Retention withheld during the design phase options and bid option shall be released upon award of the construction contract. Retention withheld during the Construction Administration Option, Option four, shall be released upon substantial completion of the Project.

2.4 Tax Withholds: County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.

3. Term

3.1 The Term: The term of this Agreement shall be from the date of this Agreement until completion of the agreed upon services unless sooner terminated as provided below.

3.1.1 Notice to Proceed: The Architect shall not commence work on an option until a Notice to Proceed is issued by the County. The County has no obligation to issue Notices to Proceed for all phase options.

3.1.2 Termination for Delay: If the project is delayed or suspended for a phase option, other than award of the General Construction Contract, beyond 60 days, termination may be mutually agreed to by the parties. If the project is delayed or suspended for the award of the General Construction Contract, beyond 120 days, termination may be mutually agreed to by the parties.

3.2 Default: Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 Termination by County: The County may terminate this agreement upon 15 days prior written notice. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Consultant, subject to any applicable setoffs.

3.4 Termination Upon Insolvency of Consultant: At the option of the County, this Agreement may terminate on the occurrence of (a) bankruptcy or insolvency of Consultant, or (b) sale of Consultant's business.

4. Representatives.

Each party shall designate a representative, authorized to act on the party's behalf with respect to this Agreement. Consultant hereby designates **Don Phillips, Project Manager**. Owner hereby designates **Patricia Hill Thomas**. The parties or such authorized representatives shall render required decisions promptly, to avoid unreasonable delay in the progress of Consultant's services. Each party may delegate all or some of its representative's role and function to some other representative.

5. Required Licenses, Certificates and Permits.

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the services and work described in Exhibit A of the RFP must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Consultant at no expense to the County.

6. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in this Agreement, Consultant shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide the services under this Agreement. The Consultant - not the County - has the sole responsibility for payment of the costs and expenses incurred by Consultant in providing and maintaining such items.

7. Insurance

7.1 Coverage: Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

7.1.1 General Liability. Commercial general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of **no less than One Million Dollars (\$1,000,000)** per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is

used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

7.1.2 **Professional Liability Insurance.** Professional errors and omissions (malpractice) liability insurance with limits of **no less than One Million Dollars (\$1,000,000) aggregate.** Such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant's work under this Agreement.

7.1.3 **Automobile Liability Insurance.** If the Consultant or the Consultant's Board, officers, employees, agents or representatives utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury and property damage liability with limits of **no less than One Million Dollars (\$1,000,000) per incident or occurrence.**

7.1.4 **Workers' Compensation Insurance.** Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County its Board, officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Consultant.

7.2 **Deductibles:** Any deductibles, self-insured retention's or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retention's or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retention's, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant's defense and indemnification obligations as set forth in this Agreement.

7.3 **Additional Insureds:** The Consultant shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, naming the County and its Board, officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Consultant, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Consultant; (c) premises owned, occupied or used by the Consultant; and (d) automobiles owned, leased, hired or borrowed by the Consultant.

7.4 **Primary Insurance:** The Consultant's insurance coverage shall be primary insurance regarding the County and County's Board, officers, officials, agents, and employees. Any insurance or

self-insurance maintained by the County or County's Board, officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance.

7.5 Failure to Comply with Reporting: Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its Board, officers, officials and employees.

7.6 Insurance Shall Apply Separately: The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

7.7 30 Day Notice of Cancellation: Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days' prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

7.8 Rating of Insurance Company: Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-VII; except as otherwise expressly approved by the County.

7.9 Subconsultants Insurance: Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

7.10 Certificates Of Insurance: At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

7.11 Limits of Liability: The limits of insurance described herein shall not limit the liability of the Consultant and Consultant's officers, employees, agents, representatives or subcontractors.

8. Indemnification

Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, agents, employees and representatives from and against any and all claims, suits, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, which are founded upon, arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the County, its agents, employees, and representatives.

Duty to Defend: The duty of Consultant to indemnify and save harmless as set forth herein, shall include both the duty to indemnify and at Consultant's own cost and expense the duty to defend as set

forth in Section 2778 of the California Civil Code. This duty to defend arises when such claim is made and shall be independent of any finding of the County's negligence. Consultant shall provide legal counsel reasonably acceptable to the County.

Duty to Cooperate: Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement. Specifically, Consultant shall take all steps necessary to assist the County in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

Patent Rights: Consultant represents that professional services provided by Consultant pursuant to this Agreement does not infringe on any other copyrighted work. Consultant shall defend, indemnify and hold harmless the County from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the County of any articles or services supplied under this agreement.

8. Status of Consultant

8.1 **Independent Contractor:** All acts of Consultant and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. It is understood by both Consultant and County that this Agreement shall not be construed or considered under any circumstances, to create an employer—employee relationship, partnership, or a joint venture.

8.2 **Conduct as Independent Contractor:** At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 **Means of performing Work:** Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

8.4 **Third Person Employment:** If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging, or any other term of employment or requirements of law, shall be determined by the Consultant.

8.5 Services to Others: Consultant is permitted to provide services to others during the same period service is provided to County under this Agreement; provided, however, such services do not conflict directly or indirectly with the performance of the Consultant's obligations under this Agreement.

8.6 W-2 Forms: It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's assigned personnel under the terms and conditions of this Agreement.

8.7 Claims By Third Parties: As an independent contractor, Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Term of Maintenance: Consultant shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photo static, 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 any combination thereof.

9.2 Access to Writings: Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Nondiscrimination

During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation, sexual orientation, or sex. Consultant and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

11. Assignment

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience and training of Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

12. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

13. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: **County of Stanislaus**
 Capital Projects
 825 12th Street
 Modesto, CA 95354
 (209) 525-4380 (phone)
 (209) 525-4385 (fax)

To Consultant: **Pacific Design Associates, Inc.**
 1218 K Street
 Modesto, CA 95354
 (209) 577-2288 (phone)
 (209) 577-5726 (fax)

14. Conflicts

Consultant represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Consultant represents to and agrees with County that Consultant has no present, and will have no future conflict of interest between providing County services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity which has any interest adverse or potentially adverse to County, as determined in the reasonable judgment of County.

16. Confidentiality

Any information, whether proprietary or not, made known to or discovered by Consultant during the performance of or in connection with this Agreement for County, will be kept confidential and not be disclosed to any other person. Consultant will immediately notify County in writing if it is requested to disclose any information made known to or discovered by during the performance of or in connection with this Agreement. These conflict of interest, confidentiality and future service provisions and limitations shall remain fully effective indefinitely after termination of services to County hereunder.

17. Severability

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application

thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

18. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

19. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

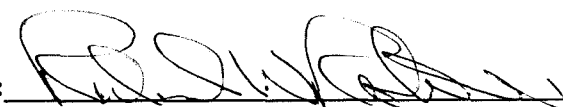

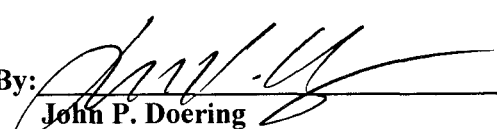
20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first herein above written.

COUNTY OF STANISLAUS By:  "County"	PACIFIC DESIGN ASSOCIATES, INC. By:  "Consultant"
APPROVED AS TO FORM: By:  John P. Doering County Counsel	

APPENDIX A SCOPE OF WORK

1. THE PROJECT DESCRIPTION

1.1 Existing Parking Lot Improvements:

Evaluate existing drainage condition and design recommended improvements. The existing parking lot was originally designed with deep swales to minimize drainage requirements and currently drains into various dry wells. The dry wells have failed over time and during heavy rains deep water ponding occurs. The roof drains via sheet metal down spouts to the pavement which flows to the parking lot dry wells. The parking lots will require new dry wells or French drains, re-grading, seal coat, new striping plan including ADA parking spaces.

Caltrans has widened Sisk Road in front of the library property. In the process of Caltrans widening Sisk Road (SH-219), the roadway encroached onto the existing Library parking lot by approximately 10 feet. This will reduce the size of the existing parking lot making it necessary to establish a new circulation design for the lot. We believe the existing trees and parking lot lights will be affected and may need to be relocated and/or additional lights provided. The existing lighting in the parking lot has lost coverage due to tree growth and there appears to be a minimum number of existing lights.

Landscaping requirements will need to be addressed for the parking lot based on the final design of the work near Sisk Road and tree layouts.

1.2 Remodel Existing Staff Restrooms:

Both men and women's staff restrooms are in need of remodeling and the current designs do not meet ADA code requirements. The restrooms are now abandoned and some of the plumbing pipes are disconnected. This area needs further investigation to determine if the underground plumbing lines are in working order.

1.3 Remodel Existing Staff Break Room:

The existing staff break room needs to be remodeled. The break room is now abandoned and need to be upgraded.

1.4 Library Interior Improvements:

Miscellaneous Finishes: ceiling and flooring finish improvements are needed in the Computer Training room, Central Stores room, Children's Storage room, and the two Storage rooms in the Community room. The Computer Training room needs a ceiling with lay-in lights and power distribution/data systems to serve the quantity of training computer stations.

Flooring is needed in the back of house employee corridors. The rubber base near the tenant space in the public lobby needs to be replaced with matching tile base, to be consistent with the rest of the lobby area.

1.5 Upgrade Future Tenant Lease Area (Design Option):

The future lease for tenants remains unfinished and not leased at this time. Improvements are needed to allow the area to be leased. Typical owner furnished tenant rough-in services are needed. The area

needs to be redesigned for code required demising walls to separate the library areas from the future tenant spaces. The area is currently severed from the building's central HVAC system. New HVAC systems are needed to allow independent HVAC service, which could include multiple air cooled roof top packaged gas/electric HVAC curb mounted equipment.

Electrical rough-in service is needed to serve future tenant's lighting and electrical power service requirements. The new service will required separate metering to meet the requirements of the local utility company. New plumbing rough-in services are needed to allow future tenants to install restrooms and/or sinks in the various tenant spaces. The existing fire sprinkler and fire alarms systems needs to be upgraded per current code requirements.

A tenant design decision needs to be established if the space should be developed based on multiple tenant approach with a central access corridor or as a single tenant lease. The code required existing needs to be reviewed per the current codes.

1.6 Add Canopy at Entry Doors to Future Tenant Area:

The existing exterior double door entry at the north east face of the building needs a decorative canopy to enhance the entry and to provide shade and protection against the rain as tenants enter the building.

1.7 Lobby Interior Improvements (Design Option):

The existing main public lobby has an existing adjacent unfinished room that can be developed as a potential tenant space for a small café or retail space to sell merchandise. Plumbing provisions are needed to allow tenant development per the plumbing and health codes. An existing sewer line runs below the existing slab in the unfinished room. The space needs HVAC, plumbing, electrical power, and light panel services to be developed.

1.8 Exterior Wood Trim Accent Boards and Glu-Lam Beams:

The existing 3 x 12 wood accent trim boards around the concrete block walls have deteriorated beyond repair. They need to be removed and/or replaced. If removed, the anchor bolts in the blocks need to be cut-off and sealed for corrosion resistance and water penetration into the building. The existing glu-lam beams at the exterior landscaper patio are showing signs of deterioration. A structural analysis needs to be made to determine if the beams can remain and be covered with a painted metal skin to improve the appearance. Or, can the beams be removed without impacting the wing wall that supports one end of the beams.

1.9 Existing Central HVAC Built-up System

The existing HVAC system is a built-up system with chilled water coil and filter bank. The system includes a single Joy vaneaxial supply/return air fan, a 100 ton Carrier water cooled chiller with four compressors, a single chilled water and condenser water pump, and a BAC cooling tower. The heating is a single 1.2 BTUH Parker hot water boiler with a single hot water pump. The HVAC controls are pneumatic and in poor operating condition. Many of the controls are not functioning as originally designed, out of calibration, and/or missing key components due to failures such as automatic damper motors. The outside dampers and economizer controls are not functioning and running in a fixed position due to bad actuator motors and failed controls.

The original system is nearly 40 years old, in poor operating condition, and at the end of its lifespan. A professional evaluation is needed to determine if the existing system should be upgraded and/or replaced with a self-contained roof top air cooled HVAC equipment at various location on the roof. The review needs to include a structural evaluation to determine if the roof can be retrofitted to support the equipment. The evaluation needs to keep in mind that the library needs to remain in operation during the renovation work.

The HVAC system study needs to include a lifecycle analysis, a recommendation if the systems should be repaired or replaced with a similar system approach or new roof top HVAC packaged equipment. An estimate of construction costs needs to be included. The estimate must be developed using an independent professional estimating consultant working with the HVAC engineer. The County, with input from the Architect, will select the option for repairing or replacing the system to be included in the construction documents.

1.10 Option Skylights:

Natural light in the lobby and in the reading areas of the library could supplement the lighting system. An evaluation and study is needed to determine if the option of adding skylights is feasible for inclusion in the construction documents.

2. SCHEDULE OF SERVICE, AND SCHEDULING

2.1 Schedule

2.1.1 Architect shall complete or cause to be completed all services required under this Agreement in accordance with the approved Master Schedule, Appendix B.

2.1.2 For each phase option of the Work under this Agreement, Architect and Consultants shall prepare and submit for County acceptance, a task list. The task list shall identify the tasks (and subtasks) defining in detail the scope of work (drawings and specifications) of each phase option. The task list submitted shall be coordinated with the Master Schedule and the Architects Design Schedule.

2.1.2.1 The task list for each phase of the Work under this Agreement shall be submitted with the deliverables at the conclusion of the previous phase of the Work under this Agreement.

2.1.2.2 Revisions to the task list shall be submitted for County acceptance on an as-required basis. Architect's response time to County-requested revisions to the task list shall not exceed three work days. County will not request revisions to the task list more than once a month.

2.1.2.3 The Task list shall act as the basis of Architect's Design Schedule and respective payment requests.

2.1.3 Architect shall prepare, submit for County acceptance, and maintain a design schedule detailing the Architect's scheduled performance of the Work. The schedule shall fit within and coordinate with the overall Master Schedule, Appendix B.

2.1.4 Prior to commencement of the Program Verification/Schematic Design Option, Architect shall submit for County acceptance a schedule covering all work of each phase under this

Agreement that provides a detailed schedule for the tasks (and subtasks) of the Schematic Design Option. For each succeeding phase of the Work, Architect shall update and supplement this schedule with a detailed schedule covering by task (and subtask) Architect's work during the succeeding phase of the work. (The required schedule supplement shall be submitted as part of Architect's deliverables at the conclusion of the current phase of the Work.)

2.1.5 No payment shall be due Architect for any phase of the Work until the required schedule is provided and accepted by the County. The Architect's schedule shall be updated monthly, and shall meet the following requirements:

2.1.5.1 Architect's schedule shall outline dates and time periods for the delivery of Architect's services, requirements for information from the County for the performance of its services, reviews and approvals by the State, and required third party approvals and preliminary meetings required to obtain agreement in principle with agencies and tenants involved in the Project.

2.1.5.2 The required schedule shall coordinate with the requirements of the County for potential utilization of construction packages, systems, equipment, and areas. The schedule shall include appropriate State, County and third party design review durations for each contract package.

2.1.5.3 The schedule may be a manual format or in a computer software format as approved by the County.

2.1.6 Architect shall adjust and cause its retained Subconsultants to adjust activities, personnel levels, and the sequence, duration and relationship of services to be performed in a manner that will comply with the approved schedules. Revisions to Architect's schedules shall be prepared and submitted when requested by County, but not more frequently than once a month.

2.1.7 Architect shall meet with, make written recommendations to, and coordinate with Project Manager at least once a week, or more frequently if necessary, regarding ongoing design and construction work, with respect to the following subject matters:

2.1.7.1 Value engineering (including value engineering design, quantity surveys of materials, equipment or labor, or audits or inventories);

2.1.7.2 Constructability (including actual and reasonable constructability in light of County's objective to secure a completed Project with the lowest reasonable construction costs);

2.1.7.3 Project scheduling;

2.1.7.4 Scheduling of Architect's own Work and coordination with work of other consultants; and

2.1.7.5 Construction schedules.

2.2 Schematic Design, Option 1: The Architect shall complete the Schematic Design phase within 42 calendar days after receipt of County's written authorization to proceed with this option. The time for completion is exclusive of time for review by County and State unless otherwise agreed to by the County.

2.3 Construction Documents Phase, Option 2: The Architect shall complete the Construction Documents Phase within 49 calendar days after receipt of County's written authorization to proceed with Construction Documents Phase, exclusive of time for reviews by County unless otherwise agreed to by the County.

2.4 Bid Phase, Option 3: The Architect shall complete the tasks required under the Bid Phase within 35 calendar days after receipt of County's written authorization to proceed unless otherwise agreed to by the County.

2.5 Construction Administration Phase, Option 4: The Architect shall provide services during the Construction Administration Phase, initiating at the Pre-construction Conference, for a period of calendar days through completion and acceptance of the project by the County Board of Supervisors (unless construction delays are the result of the bid documents as provided by the Architect). Should the time for construction exceed 8 months, the Architect's services beyond that time will be compensated for under the Additional Services Clause of this contract if the delay is through no fault of the Architect.

2.6 Review Corrections and Approval: The above options' time period are exclusive of the review, correction, and approval times specified herein under each option.

2.7 Time: Time is of the essence for this agreement. The Architect shall comply with all response times or schedules specified in this Contract and in the project manual/specification or as agreed to by the County.

3. CONSTRUCTION BUDGET

3.1 Construction Budget: The budget, which is subject to revision by the County during the Schematic Design Option, is based on the preliminary conceptual estimate developed by the County or the revised estimate developed as part of the final scope from Option 1, the Schematic Design Option, of this contract.

3.1.1 The total construction budget (excluding hazardous materials abatement, FF&E, and contingencies), estimated to the midpoint of construction, is One Million Eight Hundred Fifty-Seven Thousand Five Hundred dollars (\$1,857,500).

3.1.2 The County may, in its sole discretion, add to or reduce by 5% the total construction budget during the Schematic Design Option at no change in fee.

3.1.3 After the Schematic Design Option, the budget may be revised only upon written approval of the County.

3.1.4 A construction budget increase over and above five percent (5%) will result in a negotiation for a proposed fee increase for that amount above the 5%.

4. DEFINITIONS

Acceptance: The formal Acceptance by the County Board of Supervisors of the completion of the Work of a Construction Contract, which to County's knowledge has been performed in accordance with the Contract Documents and any approved modifications thereof.

Addendum: A written change to the Bid Documents issued before the time fixed for the opening of Bids.

Allowance: A stipulated amount specified in the contract for a scope of work to be defined later.

Alternate: See Bid Item below.

Appropriate Authorities and Agencies: Any private, local, municipal, County, State, regional, or federal authority or agency with which the Project may be involved. This term is intended to include those agencies and authorities which may require information or from which information is obtained.

Architect: The Architectural Team consisting of the Architect and the Subconsultants. The Architect will be an agent of the County for design of the facility.

Architect's Schedule: The schedule, prepared by Architect and approved by Owner, showing the timing and phasing of Architect's Services in connection with a Project, as set forth in Paragraph 2. It will include detailed design phases and tasks and be prepared in a bar chart format with supporting tasks by drawing/document program.

Basic Services: Architect's basic services as described in Paragraph 5.

Bid: The offer of a Contractor to perform the Work pursuant to a completed prescribed Bid Form, properly executed and guaranteed, and timely submitted.

Bid Documents: The documents approved by the County Board of Supervisors to advertise for construction of a Project, including the Notice to Bidders, Bid Form, Agreement Form, forms for the Bidder's Bond, the Performance Bond, the Payment Bond for Public Works, and the Escrow Agreement: Substitution of Securities, plus the General Conditions, Supplementary General Conditions, Special Conditions, Specifications, Plans, Permits, and any Addenda or written modification to any of the foregoing.

Bid Form: The approved form on which Owner requires a formal Bid be prepared and submitted for the Work.

Bid Item: A separately described Work item on the Bid Form, for which each bidder must submit a separate price. Bid items may be the following types:

Base Bid Item: The Basic Work described by the Contract Documents.

Additive Bid Item: A separately described additional Work item, which the Contract Documents clearly identify as an Additive Bid Item, for which each bidder must submit a separate price, and which Owner may choose to award *in addition* to the Base Bid Item.

Alternate Bid Item: A separately described alternate Work item, which the Contract Documents clearly identify as an Alternate Bid Item, for which each bidder must submit a separate price, and which Owner may choose to award *instead of* Work specified in another Bid Item.

Deductive Bid Item: A separately described Work item, which the Contract Documents clearly identify as a Deductive Bid Item, for which each bidder must submit a separate deductive price, and which Owner may choose to *deduct from* the Base Bid Item.

Change Order: A written amendment to a Construction Contract, changing the Work, the Contract price and/or the Contract time, approved and executed by the Contractor and the County Board of Supervisors or the Owner's Authorized Representative within the limits authorized by the County Board of Supervisors.

Construction Budget: Shall mean the County approved budget for construction of the project as defined in Paragraph 3.

Construction Contingency: The money budgeted by County for its use during construction for reasonable changes such as unforeseen conditions, design omissions and errors, delays, etc. It does not include scope changes.

Construction Contract: The written agreement on the Owner's form covering the performance of the Work and the furnishing of labor, materials, tools and equipment in the construction of the Work.

Construction Documents: The complete Plans and Specifications prepared by Architect describing the scope and details of the construction Work to be performed by the Contractor including all approved change orders synonymous with "Contract Documents."

Construction Manager: Stanislaus County Capital Projects.

Contractor: The person or persons, firm, partnership, corporation, or combination thereof, private or municipal, or the legal representatives thereof, who have entered into a Construction Contract with Owner. Synonymous with "Construction Contractor".

Contractor's Submittals: Items submitted by a Construction Contractor for Owner's review and acceptance including, but not limited to shop drawings, layouts, schedules, substitution requests, samples, mockups, catalogs, product data and literature, equipment data sheets, maintenance and operating data, warranties and guarantees.

County: Stanislaus County or Owner.

Days: Calendar days unless otherwise designated.

Deliverables: The Instruments of Service and other products of Architect's Services to be delivered to Owner pursuant to this Agreement.

Design Contingency: That portion of the estimate of construction cost for unknown or unforeseen costs.

Documents: The Contract Documents.

Estimate: As used herein, the following terms and meanings shall apply:

- a. Estimate of Construction Cost - Shall mean the estimate of cost of the construction work established by the Architect at a specific period in time (which

will not be greater than the construction budget per paragraph 3.) The estimate shall include costs at current market rates, escalated to the mid-point of construction, including a reasonable allowance for overhead, profit, and design contingency. The estimate does not include the cost of land, right-of-way, County's bidding contingency, movable furnishing and equipment, change order contingency, and County contingency or other costs which are the responsibility of the County. The estimate does not include the compensation of Architect, Architect's Subconsultants, other consultants, and those items which are Owner's responsibility.

- b. Preliminary Statement of Probable Construction Cost - Estimate of probable construction cost in systems format, based on the Owner-approved Schematic and Design Development Phase documents.
- c. Final Statement of Probable Construction Cost - Estimate of construction cost in systems and CSI format, based on Owner-approved Construction Documents.
- d. Limit to Construction Budget - In no case shall the Preliminary and Final Statement of Probable Construction Cost exceed the Construction Budget. (Paragraph 3).

Governmental Agencies: Whenever, in this Agreement or the Contract Documents, reference is made to any governmental agency or officer, such reference shall be deemed made to any agency or officer acting in accordance with law to the power, duties, jurisdiction, and authority of the agency or officer mentioned.

Instruments of Service: Designs, drawings, sketches, renderings, plans, specifications, data, maps, models, studies, reports, schedules, estimates, and other tangible products of Architect's Services in connection with a Project pursuant to this Agreement.

Notice of Final Acceptance: A document authorized by the County Board of Supervisors and executed by the County and Architect signifying that a Construction Contract has been completed.

Owner Contingency: The contingency amount in the project budget for County use to cover unforeseen issue and/or minor scope changes within the program. Not to be confused with the construction contingency.

Owner: Stanislaus County.

Options: Items or work in the specifications and including in the base bid which may be chosen by the County between two or more selections.

Other Direct Costs: Other direct costs are costs other than the Basic Services labor, overhead, and profit (but included in the total fee). They are expenses made by the Architect and the Architect's consultants. These expenses shall include computer plots, blueprinting and reproduction, and other general office expenses, etc., required for the completion of the work specified in this contract. Note: Does not include blueprinting for bidding, which is paid by the County.

Phase or Option: A discrete part of Architect's services, as further described in this agreement.

Plans: Project drawings prepared by Architect for approval by the County Board of Supervisors, including any Addenda approved by Owner's Authorized Representative, which specify the location, character, dimensions, and details of the construction Work to Be performed. Synonymous with "Drawings," "Contract Drawings," and "Documents."

Program: The schematic phase pre-design document developed by the Architect which shall be the guide for Architect's subsequent Services.

Project: An entire public improvement proposed by Owner, to be designed by Architect, and to be constructed in whole or in part pursuant to Plans and specifications prepared by Architect, including the Construction Contract and any phasing and milestone requirements.

Project Budget: The Project Budget is the County's estimate of costs, including but not limited to, the elements of design consultants, land, construction, FF&E, soft costs, etc. for the entire Project.

Project Master Schedule: The time phased schedule for planning, design, bidding, and construction for the entire Project.

Record Drawings or Documents: Reproducible copies of the Contract Plans updated by Architect using information provided by the Construction Contractor showing conditions encountered and the final configuration of a Project as it was built, plus all clarifications, RFI's and changes posted by the Architect during construction.

Request for Information/Clarification: An instruction, clarification or additional information communicated by the Architect through the Owner to the Contractor which does not change the Construction Contract cost or time. (Note: The Owner may make interpretations which change a no cost RFI/Clarification to a Change.)

Services: The performance of labor and the provision of Instruments of Service by Architect in connection with a Project, pursuant to this Agreement.

Specifications: The directions, provisions and requirements pertaining to the materials to be furnished and to the method and manner of performing the construction Work by the Construction contractor, including any Addenda and revisions approved by Owner.

Standard of Care: The degree of learning, knowledge and skill possessed by reputable architects practicing on similar projects in the greater Sacramento/Stanslaus County areas. This definition will take precedence to others used in this agreement. Other provisions of this Agreement notwithstanding, all services performed under this Agreement shall be performed in a manner which meets this standard.

Subconsultants: A person or organization directly contracting with Architect to provide services for a Project. Synonymous with consultant.

Work: That which is constructed or done pursuant to a Construction Contract to accomplish a Project, including the furnishing of all labor, materials, and equipment.

5. BASIC ARCHITECTURAL SERVICES OF ARCHITECT

5.1 Services in General: The Architect will be a team consisting of the Architect of Record and its Consultants. The Architect shall have overall responsibility and shall:

5.1.1 Consult as necessary with authorized employees, agencies, and/or representatives of County, including the Project/Construction Manager, relative to the design and major categories at work.

5.1.2 Cooperate with other professionals employed by County in the design of other work related to the Project.

5.1.3 Contract for or employ at Architect's expense (and approval by the County for which approval shall not be unreasonably withheld) consultants to the extent and as needed within the Standard of Care. This paragraph shall not create an obligation or contractual relation between County and any consultants retained by the Architect under the terms of this agreement. Said consultants shall, so long as their performance continues to be acceptable to the County, remain in charge of their scope of work for the project through completion of services provided in this agreement.

5.1.4 Provide an architectural team consisting of a the Principal-in-Charge, Project Manager, and Project Architect for approval who shall, so long as their performance continues to be acceptable to the County, remain in charge of the services for the Project from beginning of Programming through completion of services provided for in this agreement.

5.1.5 Assist County in fulfilling normal requirements set forth by appropriate authorities concerning the design, cost, and construction of the Project.

5.1.6 The Architect shall cooperate with funding agencies, and assist the County in providing information to interested parties to obtain funding for the Project or to comply with funding requirements imposed on the County.

5.1.7 All travel and related costs required to perform the architectural service for the Architect and its consultants will be included as an Other Direct Cost in each phase unless outside of the greater Stanislaus County area.

5.1.8 Provide Contract Documents including alternates, allowances, and options as specified by the County.

5.1.9 The Architect will provide their minutes of all meetings attended by the Architect regarding the Project within five days from the meeting.

5.2 Criteria

5.2.1 The Project shall be developed and designed in accordance with the latest issue of applicable codes, laws, regulations, and professional standards in effect as of the date of approval of the authorities having jurisdiction.

5.2.2 With the exception of fire sprinkler design, Architect shall not, unless otherwise permitted in writing by County, propose or recommend any design that has the effect of shifting design responsibilities from Architect to a contractor, through performance specifications or any other means unless otherwise agreed to in writing by the County. Performance specification will be allowed only when necessary to preclude single vendor sources.

5.2.3 Architect shall not, unless otherwise permitted in writing by the County, specify unique, untested, proprietary or sole source equipment, systems or materials. Whenever proprietary or sole source design or equipment is used, the Architect's design will allow for periodic maintenance and replacement of parts, equipment or systems, to be performed normally and without excessive cost or time.

5.2.4 Architect's design shall provide that surfaces, fixtures and equipment are readily accessible for maintenance, repair or replacement by ladders, power lifts, cat walks, and the like without exceeding the design loads of the floors, roofs, ceilings, and that such access shall be in conformance with Cal OSHA.

5.3 Scope

5.3.1 Basic Services shall include all the services and activities specified below in Schematic Design Phase, Construction Document Phase, Bidding Phase, and Construction Administration Phase, and warranty work.

5.3.2 Performance of services will require Architect to work with, meet with, and attend meetings with County staff, tenants, with other governmental agencies, with Contractors, and with such other consultants as Architect determines necessary, to the extent reasonably necessary for the design and construction of the Project and performance of Architect's duties under this Agreement (including, but not limited to, Architect's express duties of coordination with other consultants).

5.3.3 Work performed by Architect shall conform to the requirements of the California Business and Professions Code. As referenced in Section 6703.1 of such Code, "Responsible Charge" for the work shall be with a Registered Architect, Civil Engineer, Structural Engineer, Mechanical Engineer, and Electrical Engineer Licensed by the State of California.

5.3.4 Architect shall provide to County professional architectural and engineering services in all phases of the Project to which this Agreement applies. Services will include providing all professional architectural and consultant services necessary to perform the Work.

5.3.5 Architect shall have adequate personnel, facilities, equipment and supplies to complete the work. Architect shall provide all materials to complete the required work.

5.3.6 Architect shall engage those specialty Subconsultants, as necessary for proper completion of the Work, at the sole expense of Architect. Architect's contracts with its Subconsultants (and their contracts with their Subconsultants) shall incorporate this contract by reference to the extent not inconsistent with the Subconsultant's scope of work. County shall have the right to approve specialty Subconsultants engaged by Architect as well as their form of contract, which approval shall not be unreasonably withheld.

5.3.7 Architect shall require each of its Subconsultants to execute agreements containing insurance and indemnity provisions coextensive with those in this Agreement and which will indemnify and hold County harmless from errors or omissions of the subconsultants.

5.3.8 Architect, or where appropriate, their consulting engineers shall review and visually verify as-built and as-designed information supplied by the County concerning existing structures, facilities and utilities, and determine if such information is sufficient to use in

connection with the phases of the Architects Work and to be made available to Bidders and the Construction Contract. Architect, and where appropriate, their consulting engineers, shall not be responsible nor liable for the accuracy of such information provided by the County.

5.3.9 The Architect shall make any required corrections or revisions to reports, drawings or specifications which are a result of any errors or omissions by Architect, at no additional cost to the County.

5.3.10 Architect shall provide to the County a written list of governmental regulations, licenses, permits, and any other type of applicable restriction and associated requirements for the completion of the Work and its incorporation into the Project.

5.4 Coordination of Architectural and Engineering Subconsultants/Other Consultants.

5.4.1 Architect shall coordinate design, architectural work, architectural and engineering disciplines and Subconsultants involved in completing the Work. Architect's Subconsultants shall coordinate with Architect and all architectural and engineering disciplines and Subconsultants involved in completing the Work. The objective of this coordination shall be the development of a complete comprehensive and workable design in which the work of Architect plus each Subconsultants interfaces well and is properly coordinated, architecturally sound and well engineered, with details that work together with regard to all affected disciplines.

5.4.1.1 Architect shall require the Subconsultants to agree in their subcontracts to coordinate with Architect and other Subconsultants.

5.4.1.2 Architect shall conduct design coordination meetings with all subconsultants employed by Architect.

5.4.2 Architect and its Subconsultants shall coordinate its designs with the owners data and communication design.

5.5 Deliverables: Provide all deliverables required under this contract.

5.6 Not Used

5.7 Schematic Design Option 1:

5.7.1 Schematic Design: The Architect shall complete schematic design based on the scope, Exhibit A, including adjustments authorized by the County, the Architect shall prepare the following:

5.7.1.1 Schematic Design Documents: The Architect will be responsible for Schematic Design. The Architect will arrive at a clearly defined, well analyzed design that meets defined needs and/or concept as set forth by the Owner. It will include considerations of the existing and building systems. Based on the scope and construction budget, the Architect will prepare Schematic Design Documents for review and approval by the County. The documents consist of drawings, specifications, a narrative description and relationship of project components, and performance requirements. These documents will cover basic architectural, mechanical, structural, and electrical concepts. The Architect will provide the County a design concept scheme for their review and approval before proceeding with the final schematic design.

5.7.1.2 Meetings:

5.7.1.2.1 Project Kick-Off Meeting: At the beginning of the Schematic Design Phase, the Architect will attend a Project Kick-Off Meeting with the Core Team, and Users to discuss the project and schedule, and to listen to the users. The Architect shall follow up with individual or small group meetings as necessary to promote user involvement in the design of the Project.

5.7.1.2.2 Weekly Schematic Core Meetings: County Project Manager, Architect, and other Core Team Members shall meet as agreed to review and discuss progress, problems, and activities planned for the next interval.

5.7.1.2.3 Review and Development Meetings: Attend as requested by the County.

5.7.1.3 Estimate: The Architect will prepare a Statement of probable Construction Cost based on the Schematic Design Documents and other available data. The Architect will compare it to the construction budget. The Statement of probable Construction Cost must not exceed the construction budget.

5.7.1.4 Value Engineering: Informal value engineering will be used as an on-going process throughout the development of the design and specifically if there appears to be an estimated cost over the construction budget.

5.7.1.5 Site Visit and Investigations

5.7.1.5.1 Investigate existing conditions through site visits and otherwise, to determine scope of work and effects on design and construction.

5.7.1.5.2 Advise the County as to the necessity of obtaining additional information related to the site, necessary for purposes of design.

5.7.1.5.3 Review information and advise County whether such data is adequate for purposes of design. Determine if additional data is necessary because of apparent errors, conflicts, incomplete information or as may be otherwise required, before Architect can proceed with design.

5.7.1.6 Recommendations on Required Additional Information

5.7.1.6.1 Advise County as to the necessity of County's providing or obtaining from others available or additional information pertinent to the Project including previous reports, as built conditions, information, and any other data relative to design or construction of the Project.

5.7.1.6.2 Make recommendations on required additional information necessary to complete the design and complete the preliminary reports and schematic materials.

5.7.1.6.3 The Architect will describe the progress weekly, and provide at least monthly progress submittals.

5.7.1.7 Deliverables

5.7.1.7.1 County Approval: The completed Schematic Design drawings, specifications, probable cost estimate, and other documents will be presented to the County for written approval which would include review by the State.

5.7.1.7.2 The Architect shall provide for County approval:

- 1) Floor plans, with room names, no less than 1/8" = 1'-0" scale, showing gross square footage. Preliminary Parking lot plans showing entry, exits, and path of travel.
- 2) Specification outline and a written description of the major systems, including but not limited to, security, HVAC, fire protection, plumbing, and electrical.
 - a. Submit an electronic copy to Capitals Projects' SFTP site of outline specifications including description of the site, architectural, mechanical, and electrical systems and materials proposed, which describe performance requirements.
 - b. Submit an electronic copy in PDF Format to Capital Projects' SFTP Site:
 - c. Preliminary project schedule.
 - d. Preliminary cost estimate.
 - e. Architect task list and schedule for Construction Document Phase.
 - f. Written concurrence that design for the Project can be developed within the County's budget.

5.7.1.8 Final Submittal: For the Final Submittal, the Architect will allow two (2) weeks for the County review; will make changes requested by the County and resubmit a single reproducible copy with corrections within 1 week of receipt of final comments or as otherwise approved by the County; and allow 3 days to schedule the Board approval.

5.7.1.8.1 Attend document and final review meetings as requested by the County. Document County review comments and how they were incorporated into the design. This document shall be provided with the final corrected design.

5.7.1.8.2 Estimate of Construction Costs and Schedule.

5.7.1.8.3 Schematic Layouts, Sketches and Design Criteria

- 1) Prepare reports containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits.
- 2) Reports and exhibits shall incorporate the County's scope requirements and shall include structural, mechanical and electrical concepts, floor plans, elevations, sections, study perspectives and other drawings necessary to describe the Project.

3) Reports and exhibits shall indicate clearly the considerations involved, including but not limited to applicable requirements of governmental authorities have jurisdiction, easements, or other legal restrictions.

4) Reports and exhibits shall indicate any alternative solutions available to County and set forth Architect's findings and recommendations.

5.8 Construction Documents Phase, Option 2:

This phase commences only after the County has approved the Schematic Design Documents and cost estimate. Upon written authorization from the County to proceed with the Construction Documents Phase Option, the Architect shall provide the following services and a revised schedule of the Architect and Consultants work for the Construction Document Phase.

5.8.1 Based upon approved Schematic Design Documents and any further adjustments in the scope and quality of the Project or in the Project budget authorized by County, the Architect shall prepare, for approval by County, Contract Documents consisting of drawings, general conditions, and technical specifications setting forth in detail the requirements for the construction of the Project. Such documents shall be full, complete and accurate within code requirements and the Standards of Care, giving such information as will enable a competent builder to carry them out. The specifications based on CSI Format shall note the detailed specifications of all specified items so that "or equal;" proposal characteristics can be reviewed and measured. The County will prepare the bidding requirements, General Conditions, Special Conditions, and Division 1 documents.

5.8.2 The Construction Documents shall conform to and be consistent with the documents approved by County at the completion of the Schematic Design Phase.

5.8.3 The Architect shall assist the County in the preparation of bidding information and bidding forms deemed necessary by the County.

5.8.4 The Architect in consultation with and upon approval of the County and Construction Manager will plan for at least three (3) bid alternates in the Construction Documents. The actual number will be confirmed by the County.

5.8.5 The Architect shall prepare all drawings and specifications in conformity with the applicable building codes, the Public Bidding Requirements of the California Public Contracts Code, and all other applicable state and federal laws and regulations in effect at the time of the signing of this agreement.

5.8.6 Upon approval by the County, Architect shall submit the completed Contract Documents to the authorities having jurisdiction over the issuance of approval for construction. Contract Documents must be approved by the Stanislaus County Building code review authority and Fire Marshal before the Project will be bid. The Architect is responsible for the timely submittal of documents including calculations and timely plan check corrections.

5.8.7 Working drawings shall be prepared using computer aided drafting medium. Each door shown shall have a separate, unique number; each room shall have a name and separate unique number; and shall be listed separately on the room finish schedule. Door hardware functions and requirements for master keying shall be specified. Drawing size shall not exceed 36" x 48"

unless otherwise approved by the County. The Architect will provide County with electronic drawings, PDF Format, on Capital Projects' SFTP site.

5.8.8 Prepare a design narrative to describe total submittal and its contents, with a documented response to all County comments.

5.8.9 Attend development and review meetings requested by the County including a one-day constructability review.

5.8.10 Provide electronic coordination drawings, PDF Format, of major physical elements of final design including but not limited to site, structure, electrical, mechanical, etc. Electrical, mechanical and specified equipment will be laid out in mechanical spaces, utility rooms, etc.

5.8.11 Certification. Provide within the Standard of Care, documents that:

5.8.11.1 Will be constructible, workable and biddable;

5.8.11.2 Will result in a facility that meets requirements of the County's program and is durable and maintainable if faithfully carried out;

5.8.11.3 Will not call for the use of hazardous or banned materials.

5.8.12 Deliverables:

5.8.12.1 The Architect shall prepare a detailed Construction Cost Estimate for the Base Bid, with separate estimates for portions of the Project authorized by the County to be bid as separate segments, allowances, and/or alternates. Cost escalation shall be measured to the mid-point of construction.

5.8.12.2 The Architect shall prepare and submit to the County electrical, and mechanical calculations for the Project.

5.8.12.3 The Architect shall prepare and submit to the County complete Final Title 24 Energy Compliance Calculations.

5.8.12.4 The Architect shall review and comment on the General Conditions and Division 1 specifications provided by the County, but not as to legal or insurance requirements or considerations. The County may accept or reject the Architect's suggested changes in its sole discretion.

5.8.12.5 The Architect shall submit the revised color/material board for both interiors and exterior alternation, if any, with written color schedule at 50% of the Construction Documents Phase.

5.8.12.6 Prior to commencing the Bid Phase, the Architect shall prepare a revised final estimate of basic work together with estimates of all alternatives and changes ordered by the County, in a form approved by the County. This final estimate will control whether the Architect will be obligated to redesign the Project pursuant to requirement herein below.

5.8.12.7 Define Contractor's performance testing, quality control, operation and maintenance manual, and training requirements for mechanical, electrical, and equipment in the specifications.

5.8.12.8 The Architect shall specify the qualification criteria for specialist subcontractors, including qualification submittal requirements.

5.8.12.9 Provide detailed, biddable construction documents, plans, and detailed specifications for all disciplines required to construct the project.

- 1) Submit one electronic copy (Microsoft Word) of the specifications.
- 2) Submit one electronic copy (PDF format) of the drawings.
- 3) Suggested construction project schedule.
- 4) Final detailed cost estimate.

5.8.13 100% Final Submittal:

5.8.13.1 100% Submittal: The Architect shall make changes necessary to comply with the County's review comments, and resubmit a set of corrected documents, along with County's marked-up check set within 5 days of receipt, or as agreed to by the County. The Architect will allow 5 days to schedule the Board approval.

5.8.13.2 Presentation to the Board of Supervisors for approval, if requested.

5.8.13.3 Attend document and final review meetings, and document comments and how they were incorporated in the design. The documentation will be provided with the 100% submittal.

5.8.13.4 Provide the final estimate as necessary.

5.9 Bidding Phase, Option 3:

This phase commences after the County has approved the Contract Documents and the final construction cost estimate. Upon receipt of the County's written notice to proceed with the Bid Phase Option, the Architect shall perform the following services:

5.9.1 The Project manual shall be on 8-1/2" x 11" paper, unless otherwise approved by the County. Both drawings and specifications will also be provided in digital format. Specifications will be in Microsoft Word software. For bidding purposes, the Architect shall provide reproducible drawings and County will reproduce the drawings and the project manual for bidding.

5.9.2 The Architect shall assist the County in interpreting the drawings specifications during the bidding process, and prepare addenda to the drawings or specifications that may be required, but the County shall approve all proposed addenda before delivery by the County to interested bidders. The Architect shall issue no other addenda, verbally or in writing, to bidders. The Architect shall receive all bidder questions and shall record the questions and answers given on the form approved by the County. The Architect will keep a log of all questions including the

subject, date received, date answered, party requesting information, and the Architect's employee giving information. The log and forms will be issued as back-up information for each addenda. The Architect will summarize for each addenda the drawing or specifications being clarified and the specific change being made. Additional drawings or specifications will be issued as required.

5.9.3 The Architect shall participate in the pre-bid conference for the bid package with interested bidders and County staff at County's request.

5.9.4 The Architect shall advise County concerning acceptance or rejection of bids for the Project.

5.9.5 County reserves the right to accept bids in excess of the approved final construction cost estimate or to reject any or all bids received.

5.9.6 The Architect will integrate all addenda, changes and revisions into the drawings and project manual prior to the County's issuance of the Notice to Proceed to the Contractor. The County will pay for printing costs. It is estimated that the bidding period will last 30 days and the Notice to Proceed will follow 15 days after the bids are received.

5.9.7 Assist County in advertising for and obtaining bids for each separate prime contract for construction materials, equipment and evaluating bids.

5.9.8 Consult with and advise County as to the acceptability of subcontractors, suppliers, other persons, organizations and specialists proposed by the bidders for those portions of the work as to which such acceptability is required by the bidding documents.

5.9.9 For substitutions, determine if the salient characteristics have been met. Consult with County concerning, and determine the acceptability of, substitute materials and equipment proposed by Bidders.

5.9.10 Issue written addenda as appropriate to interpret, clarify or expand the bidding documents including allowable substitutions of materials and equipment.

5.9.11 Attend the bid opening and assist County in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

5.9.12 Review and make recommendations on all substitution requests within five days before the scheduled bid opening per Public Contract Code 3400.

5.9.13 If the lowest responsible, responsive bid received from a contractor exceeds the County's construction budget and Architect's estimate for the work to be performed by the contractor, the County may, at its discretion:

5.9.13.1 Award the contract to the lowest responsible, responsive bidder, and give written approval of increase in County's budget.

5.9.13.2 Reject all bids and rebid the contract.

5.9.13.3 If the base bid amount is more than Architect's estimated amount for the base bid plus additive alternates in Architects final statement of probable Total Construction Costs rendered at the end of the Construction Document Phase, require the Architect to redesign

and revise the documents or revise the scope of work to be performed by the Contractor or its quality, or both, so as to reduce the Project Construction Cost for the work to be performed by the Contractor, while still meeting the County's program objectives in which case the Architect shall at its expense, if so directed by the County, modify the Construction Documents in order to reduce the Project Construction Cost for the work to be performed by the Contractor within the Project budget per Paragraph 6 of this agreement.

5.9.13.4 Abandon the Project and terminate this Agreement or not approve proceeding with the next option.

5.9.14 Prior to the Notice to Proceed to the construction contractor, the Architect will conform all drawings and specifications to include only changes which were the result of addenda during the bid period. Any other changes the Architect wishes to include in the conformed set must first be issued as an RFI/clarification for the Owner's approval.

5.10 Construction Phase Option 4:

This phase commences with the award of the Contract for Construction, and will terminate upon the completion by the Contractor of all services required by the Contract for Construction, and acceptance of the Project by the Board of Supervisors. The County will have a Construction Manager/Project Manager with whom the Architect will work. Upon receipt of a written notice from the County to proceed with the Construction Phase Option, the Architect shall perform the services specified herein:

5.10.1 Processing Time. The Architect shall perform all services required of the Project Architect/Engineer within the time specified in the project manual/specification and as directed by the County.

5.10.2 Preconstruction Meeting. The Architect and consultants, as requested by the County, shall attend a pre-construction conference with all interested parties.

5.10.3 Access. The Architect shall have access to the Project site at all reasonable times.

5.10.4 Project Meetings: The Architect shall attend one progress meeting per week on the Project site which is chaired by the Construction Manager. The Architect shall consult and advise County during construction with respect to the construction documents. The Architect will provide additional staff and/or consultants at the weekly meetings as necessary for the performance of the Architect's obligation under the contract as requested by the County.

5.10.5 RFI's/Clarifications: As requested by the Construction Manager, the Architect shall furnish definitions, clarifications, responses to request for information (RFI), and issue unilateral AE clarifications. Architect will render interpretations upon receipt of RFI's and provide clarification necessary for proper and timely execution of the work. When clarifications and responses to RFI's are necessary for the proper execution or progress of the work, the Architect shall render a written decision no more than fourteen (14) calendar days from the date of receipt of the request unless such review requires additional time to sufficiently respond for which the Architect shall advise the Construction Manager and such time may be approved by the County.

5.10.5.1 The Architect/County RFI's and clarifications plus RFI's by the Contractor will be issued on the County's form. The Architect shall use the numbering system assigned by the Construction manager. All information will be provided on 8-1/2" x 11" drawings (or larger

if required). Bulletins revising the entire drawing (or drawings) shall not be issued (unless approved by the County) except for the initial revision of the conformed drawings/project manual for construction (prior to the notice to proceed) which will contain only addenda revisions. Thereafter all information will be transmitted as noted above. The Architect will concurrently post all clarification/RFI (and respective change order) information on the record documents.

5.10.5.2 The Architect will respond to RFI's electronically by email or to Capital Projects' SFTP site. The Architect shall update the Construction Documents in the CADD files and/or specifications as required and will attach a PDF of the affected area with the RFI response.

5.10.5.3 The Architect shall prepare supplementary drawings and/or specifications required for clarifications/RFI's and/or changes to the documents. Supplemental drawings and/or specifications shall be incorporated into the Construction Documents in the CADD files.

5.10.6 Submittals: As requested by the Construction Manager, the Architect shall review and recommend appropriate action on Submittals, shop drawings, erection drawings, and samples submitted by Contractors for compliance with the basis of the design, drawings, and project manual/specifications. The Architect shall not have control or charge of and shall not be responsible for job-site coordination, confirmation or dimensions, quantities, weight and gauges, fabrication process, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, for the acts or omissions of the Contractor, Subcontractors, or any other persons performing any of the work, or for the failure of any of them to carry out the work in accordance with the Contract Documents.

5.10.6.1 Submittals will be posted to Capital Projects' SFTP site. The Architect will respond to the submittals electronically on the SFTP site.

5.10.6.2 The Architect shall review and recommend appropriate action on Contractor's submittals, as required by the Contract Documents, including laboratory, shop, and mill test reports of materials and equipment, and advise County as to the results of such reviews. The Architect shall promptly notify the County of all submittal review comments which comprise a change in contract requirements which could result in a change order to the Contract Documents by issuing RFI/clarification. The Architect will process submittals within no more than (10) working days to the Construction Manager unless such reviews require additional time for which the Architect shall advise the County and such time may be extended in writing by the County. Submittals will be processed electronically on the County's SFTP Site in PDF format.

5.10.7. Substitutions: The Architect shall review and recommend appropriate action on the Contractor's requests for substitutions submitted under the requirements of General Conditions, and based on supporting data submitted by Contractor; shall advise the County as to the characteristics to be measured, whether such requests are, in fact, equal products to those specified; conform to the basis of the design; and are consistent with the remaining Contract Documents. All substitutions must be reviewed and recommendations made to the Construction Manager according to Public Contract Code 3500 prior to award or in no more than ten (10) working days of receipt if submitted by exception after award (unless notified by the Architect that additional time is required and the request may be approved by the County).

5.10.8 Site Observations: The Architect shall make visits to the site at least once per week to observe and assess the progress and quality of the work; to generally determine if the work is

proceeding in accordance with the Contract Documents; and to attend the Progress meeting with the Contractor and Construction Manager. Other consulting engineers shall also make periodic visits to the site as necessary for the performance of the Architect's obligation under this agreement and as requested by the County. The Architect will e-mail or fax a written trip report in hard copy and digital format within three (3) working days of the visit to the Construction Manager. The Architect's (and Consultant's) representative making site visits will be an experienced and qualified design and Construction Administration Professional who as been delegated responsibility to make technical decisions and approvals on site.

5.10.8.1 On the basis of on-site observations, the Architect shall endeavor to guard County against defects and deficiencies in the work of the Contractor by providing technical interpretation of the documents to the County's Inspector, and shall notify County in the event a defect is observed. Exhaustive on-site inspections to check the quality or quantity of work is not required.

5.10.9 Payments: As requested by the Construction Manager, the Architect shall evaluate and sign requests for payment submitted by the Contractor based on the Architect's observations at the Project site and review of the contract Documents, and shall advise the County in writing as to the percentage and quality of work completed to date. The Architect's signing of the certificate of payment shall constitute a representation by the Architect that the work has progressed to the point indicated, that to the best of the Architect's knowledge, information, and belief, the work quality is in accordance with the Contract Documents, and that the Contractor is entitled to payment.

5.10.10 Changes: If Contractor requests a change order or claim and as requested by the Construction Manager, the Architect shall review and recommend appropriate action on such request and the time and/or price requested. If the Architect does not agree with the request for change or claim by the Contractor, within five days, the Architect will immediately prepare findings and recommendations setting forth the facts and providing an analysis upon which the recommendation is made and provide it to the Construction Manager. The Construction Manager will make the final determination.

5.10.10.1 Upon request of the Construction Manager, the Architect shall prepare and sign all necessary contract change orders and return them to the Construction Manager within two working days upon receipt or as otherwise agreed to by the County. If such change order is the result of a major change by the County in the scope of the Project, the Architect shall prepare such modifications, and shall be entitled to compensation as an Additional Service. (A major change in scope is defined as a change that is in excess of ten percent of the budgeted construction contingency.) If such change order does not result from a change by the County in the scope of the Project or other causes beyond the control of the Architect, the Architect shall not be entitled to additional compensation. The County shall approve and issue all change orders.

5.10.11 Performance Tests: The Architect and Consultants shall be responsible for managing the performance tests of the Project's mechanical, electrical, and lighting systems tests and will provide analysis of failures and problems plus make recommendations.

5.10.12 Punch Lists: As requested by the Construction Manager, the Architect and their Consultants, and where appropriate its Subconsultants, shall assist the County in preparing preliminary and final lists of deficiencies (punch lists) at substantial and final completion including updating the punch lists, and confirming completion by the Contractor. Punch List trips

and durations will be in addition to the weekly site visits. For substantial completion there will be as a maximum three preliminary and one final observation trips, and for final completion there will be one preliminary and one final observation trips. Punch list hard copy reports will be provided before leaving the job site, and a final digital copy will be e-mailed or faxed within three working days to the Construction Manager unless otherwise agreed to by the Construction Manager.

5.10.13 Substantial and Final Completion: The Architect shall make Substantial and Final on-site observations and report (in hard copy and digital format) on the completed Project, and furnish County a written notice that the Project is completed in accordance with drawings and specifications except as noted. The Architect shall report all observed omissions, unauthorized substitutions, defects or deficiencies in the work not remedied by the Contractor, and shall advise the County within three working days of discovery of the same. The Architect will sign the certifications of substantial and final completion.

5.10.14 O&M Manuals: The Architect shall review for acceptance and forward to County within ten working days of receipt all operation and maintenance manuals and written guarantees/warranties and related comments assembled and submitted by the Contractor in compliance with the project manual.

5.10.14.1 Prior to Notice of Completion, the Architect shall assist the County in reviewing the Contractor's close out package consisting of sets of O & M manuals, warranties, certifications, and instructions for electrical, mechanical, and other systems installed on the Project. The Contract Documents shall require the Contractor to assemble, organize, and index material and furnish it in electronic, PDF, format and Capital Projects will post to Capital Projects SFTP site.

5.10.15 The duties, responsibilities, and limitations of authority of the Architect as the County's representative during construction as set forth herein shall not be modified or extended without written consent of the County and the Architect. The Architect shall keep detailed notes of all conversations with Contractor or any subcontractor or supplier, including telephone conversations, and shall electronically notify the Construction Manager within 3 working days.

5.10.16 During all warranty or guarantee periods, relating to design prepared under this agreement, the Architect shall, when requested, render advice in order to assist the County in obtaining necessary compliance by the Contractor with the terms of said guarantees or warranties.

5.10.17 The Architect shall work with the County's Construction Manager's personnel and abide by the Construction Manager's procedures. The Architect will provide all documents and reports in digital data format as requested using email or Capital Projects SFTP site..

5.10.18 Architects shall, for the purpose of performing its review obligations herein, employ and engage personnel who are sufficiently qualified to conduct meaningful review of the Shop Drawings, submittals and requests for clarification.

5.10.19 Architect shall maintain to the satisfaction of the County, a computer- based system to record, log, control, and manage the processing of all documents such as Submittals, RFI's, changes, claims, schedules, etc.

5.10.20 Any communications between Architect and Contractor, and any other party acting on behalf of either, shall be in writing, or if not made in writing, memorialized in writing, and copies

of same shall be e-mailed immediately to Construction Manager. This includes all email transmissions received and sent; an electronic copy will be forwarded to the Construction Manager the same day. The Architect shall maintain a digital and hard file copy of all e-mails.

5.10.21 Record Documents: Thirty days after final completion of the construction by the contractor, Architect shall revise the original Construction Documents (Electronically on Microsoft Word and CADD) so as to incorporate therein changes made during construction to produce "record drawings" which will be based on as-built information supplied by the contractor, RFI's and change information posted by the Architect each month of the project. It is the intent that the Architect keep said record drawings adequately and accurately to record documented changes as construction progresses. The specifications shall require the Contractor to keep current records of all changes in the work for this purpose on as-built prints which will be submitted to the Architect to be transferred to reproduces at the end of construction prior to the final completion inspection. After original documents, specifications and CADD files have been so revised, they shall be delivered in electronic and velum format to County. All such documents are County property.

6. CONTROL OF CONSTRUCTION COSTS

6.1 Format and Comparing Estimates: All required estimates of construction costs by the Architect shall be a computerized, detailed take-off by Systems format.

6.2 Responsibility for Construction Cost: The County requires that the total estimated cost by the Architect shall not exceed the approved construction budget. The Architect accepts its responsibility for assisting the County in determining the scope and quality of the Project. Evaluations of the County's Project budget and estimates of costs prepared by the Architect represent the Architect's best judgment as a design professional familiar with the construction industry. The Architect's documents must meet the construction budget and the, and the Architect must also provide bid alternates in the construction documents as a fail safe to keep the final construction cost within the budget.

6.3 Review of Project to Reduce Potential Cost Prior to Approval of the Program and Schematic Design Phase: If the current estimate of the construction cost exceeds the then-current budget, the Architect shall immediately notify the County. Thereafter, the Architect shall review the Project to recommend what revisions or steps would reasonably be expected to bring the estimate of construction cost within budget. The Architect shall thereafter adjust the documents as directed, at no additional cost to the County.

6.4 Value Engineering: The County or its Construction Manager may provide recommendations on value engineering designs. The Architect's Basic Services shall include value engineering modifications to the design of the Project at no additional expense to the County through the Design Development Phase. After the Design Development Phase, the Architect shall be compensated for any value engineering modifications as an Additional Service if directed by the County.

6.5 Architects Obligation to Modify Documents:

6.5.1 If the Bid Phase has not commenced within three months after the Architect submits the Contract Documents to the County, the County-approved budget shall be adjusted to reflect any change in the general level of prices according to the Means City Cost Index between the date of submission of the Contract Documents to the County and the date on which proposals are sought.

6.5.2 If the lowest bona fide base bid for the Project received by the County exceeds the final Architect's estimate of construction cost, the County shall cooperate in revising the Project scope and quality as required to reduce the construction cost, including the acceptance of alternate bids. If the lowest bona fide base bid is in excess of the final Architect's estimate of basic work and the County so requests, the Architect shall modify the plans and specifications, without additional cost to the County, to incorporate the County-approved scope and quality revisions, so as to bring the cost of the project to within the limits set forth above of the final estimate of basic work. Providing such service shall be the limit of the Architect's responsibility arising from the obligation to modify the documents. In the event that the variation between the lowest bona fide bid and the final estimate of construction can be shown to be caused by sudden and unpredictable fluctuations (more than 15%) in economic conditions in the construction market place, as evidenced by analysis of the Means City Cost Index, the Architect's obligation hereunder shall be adjusted.

6.5.3 The Architect shall with mutual agreement of Project Manager be permitted to include contingencies for design during the Design Options (see Definitions Paragraph 4) to provide for price escalation, to determine what materials, equipment, component systems, types of construction to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project within the program and to include in the Contract Documents alternate bids to adjust the bid cost to maintain the County-approved construction budget.

7. THE COUNTY'S RESPONSIBILITIES:

The County shall provide the following services and materials to the Architect, and the Architect may rely on the accuracy thereof if reasonable to do so.

7.1 Site Information: The County shall provide the Architect with available plans, and any technical information that is currently available and relevant to this Project needed by the Architect to perform his services.

7.2 Testing: The County, upon request and without cost to the Architect, shall furnish such tests which are necessary to reveal conditions of sites and structures, including geological and geohazard tests and evaluations, which are required by Architect for the proper development of the Project.

7.3 Amendment to the Budget: The County shall establish the construction budget, which is subject to amendment by the County, based on information provided by the Architect or other Consultants retained by the County.

7.4 Bid Documents: The County shall provide to the Architect the bidding requirements, Division I, and General Conditions.

7.5 Data and Communication Systems: The County will design and construct the data and communication systems.

8. ADDITIONAL AND OPTIONAL SERVICES

8.1 Written Amendment: If the Architect is requested to provide additional services at any stage of the project development, County shall issue a written amendment to the contract.

8.2 Additional Compensation: The Architect shall receive additional compensation for the following additional services:

8.2.1 County-directed revisions of previously approved drawings and/or specifications after the Schematic Design Phase (except as otherwise specified herein) which incur cost to the Architect as the result of action by the County which are not otherwise the Architect's responsibility pursuant to this agreement.

8.2.2 Making County-directed environmental studies, topographic surveys and site surveys, and special analysis of County's needs to clarify requirements for Project programming, unless otherwise required of the Architect pursuant to this agreement as authorized by the County.

8.2.3 Providing any services in connection with repair of damage to the work when so directed by County.

8.2.4 Additional services caused by substantial and material defects, deficiencies, default, delinquency, insolvency or failure of the Contractor, when so directed by County.

8.2.5 Preparation of measured drawings of existing structures mechanical, plumbing, electrical systems and facilities, as authorized by County.

8.2.6 Making revisions in drawings, specifications and other documents when revisions are required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents after the award of the construction contract.

8.2.7 Providing services in connection with an arbitration proceeding; or legal proceeding except where the Architect is party thereto and except as otherwise required of the Architect herein occurring after completion of construction.

8.2.8 Providing any other services not otherwise included in this agreement or not customarily furnished in accordance with generally accepted architectural practice.

APPENDIX B MASTER SCHEDULE

