

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

DEPT: Chief Executive Office

BOARD AGENDA:5.B.6  
AGENDA DATE: December 12, 2017

**SUBJECT:**

Approval to Select and Award a Professional Services Agreement to Brown Reynolds Watford Architects of San Francisco, California for the Alternate Emergency Operations Centers and Harvest Hall Improvements Project; and Related Actions

**BOARD ACTION AS FOLLOWS:**

**RESOLUTION NO. 2017-692**

On motion of Supervisor Withrow , Seconded by Supervisor Olsen  
and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith, DeMartini, and Chairman Chiesa

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:

  
\_\_\_\_\_  
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: Chief Executive Office

BOARD AGENDA:5.B.6  
AGENDA DATE: December 12, 2017

CEO CONCURRENCE: YES

4/5 Vote Required: No

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**SUBJECT:**

Approval to Select and Award a Professional Services Agreement to Brown Reynolds Watford Architects of San Francisco, California for the Alternate Emergency Operations Centers and Harvest Hall Improvements Project; and Related Actions

**STAFF RECOMMENDATION:**

1. Approve the selection and award of a professional services agreement for architectural services to Brown Reynolds Watford Architects (BRW Architects) of San Francisco, California, as a result of a Request for Proposals process for the Alternate Emergency Operations Center Siting Analysis and Harvest Hall Improvements Project, and approval to initiate both the siting analysis for Alternative Emergency Operations Center(s) and the design of improvements to Harvest Hall at the Stanislaus County Agricultural Center.
2. Authorize the Project Manager to issue a Notice to Proceed to BRW Architects to initiate architectural services, contingent upon proper receipt of an executed agreement and certificate of insurance.
3. Authorize the Project Manager to use previously and approved allocated funds in the County Facility Budget for the Harvest Hall conceptual design services and the Alternate Emergency Operations Center Siting Analysis project, and related actions pursuant to the conceptual planning efforts, including project administration, in the amount of \$400,000.
4. Authorize the Project Manager to negotiate and sign contracts, work authorizations and purchase orders for professional services needed in this design phase of the project, as long as they are within the project budget.
5. Authorize the Project Manager to sign Change Orders up to \$25,000, consistent with the County's Change Order Policy.

**DISCUSSION:**

The proposed project to consider the development of an alternative Emergency Operations Center sites supports Stanislaus County's efforts to remain prepared for various potential disaster and security threat situations by providing support or

backup for the existing County emergency operations and facilities. The County has a need to mobilize alternate locations for emergency response, coordination of operations, continuity of County government services and communications in the event that the County's existing infrastructure becomes incapacitated or access is restricted. County staff seeks to identify potential location where suitable facilities may be readied for interim use as an Alternate Emergency Operations Center by preparing these facilities with the required power, communications, data and security as may be required during various types of emergency events.

Harvest Hall is located at the Stanislaus County Agricultural Center, 3800 Cornucopia Way in Modesto is a possible choice to be equipped as an Alternate Emergency Operations Center location. The multipurpose meeting facility provides 12,544 square feet of meeting space in five interconnected meeting rooms, a demonstration kitchen, a computer classroom, storage and restrooms and is solely reserved for event uses. Harvest Hall is also located on the southwest side of the Tuolumne River and State Route 99, and away from downtown Modesto, making it an ideal candidate to back or augment services during emergency operations.

Harvest Hall was opened in 1998 as part of the Stanislaus County Agricultural Center. The shared use meeting facility is heavily used, booked an average of over 8 hours daily seven days per week. Roughly half of the room bookings are for Stanislaus County agencies, the remaining times for non-County functions ranging from business meetings and training to 4H club meetings.

Harvest Hall's extensive use over its 19-year life has caused significant wear and tear. The facility's original design did not anticipate current day electronics, acoustics and lighting. The building's mechanical, electrical and kitchen systems are in need of upgrading irrespective of the Hall's potential use as an Alternate Emergency Operations Center. The meeting facilities are in need of upgrade to preserve the lifespan and usefulness of the Hall.

The addition of an Alternate Emergency Operations Center (EOC) functionality will require consideration of secondary power (emergency backup power), reliable data and telephone services, addition of wired- and wireless connectivity, enhanced audio-video technology, controlled lighting and acoustics, and enhanced security. This proposed project will accomplish both a refresh of the Harvest Hall design, but will also identify a strategy for use of Alternate EOC sites at strategic locations.

The Alternate EOC Siting Analysis will include a review of potential County-owned facilities and other suitable properties that may have the potential for use as an Operations Center in emergencies. An initial review of candidate sites will be used to narrow the analysis to two logical choices in addition to Harvest Hall. The two Alternate sites will be evaluated to consider criteria such as:

1. Susceptibility to natural disasters including flooding, earthquake damage, wildfire, etc.;
2. Availability and reliability of utilities, including water, sewer, electricity, data and communications services, including line-of-sight communications;
3. Vehicular accessibility during emergency conditions;
4. Building and site security;
5. Ability to isolate command v. operational activities; hazardous v. de-contaminated areas; public and authorized staff areas for example;
6. Ability to rapidly mobilize emergency operations at the site; and
7. Impact of disruption of non-emergency functions at the site.

One concept to be assessed is the ability to install the necessary switchgear to allow for portable emergency backup power generators (or mobile units) to be used at alternative sites by providing needed power regulation and isolation equipment.

The proposed project will proceed in two concurrent phases: the Alternate EOC Siting Analysis and the Harvest Hall Improvement project. Once the Alternative EOC needs are identified, final conceptual design of the Harvest Hall improvements will be completed, and a project scope, cost and schedule will be developed.

The Architect will initially develop a plan concept for improvements to Harvest Hall concurrently with the Alternate Emergency Operations Center Improvements. The Harvest Hall conceptual plan, cost estimate and schedule will require approval prior to proceeding to the detailed design and development of construction plans and specifications. A detailed project cost estimate, schedule, and a project funding plan will be presented to the Board of Supervisors for approval and establishment of a formal project budget. Additional reviews of the Construction documents, to seek bids and to award a construction contract will require approval of the Board of Supervisors.

The conceptual design for Harvest Hall improvements will include provisions for use of the facility as an Alternate Emergency Operations Center, but also will include renovation of the space to upgrade the condition of the facility (new finishes such as flooring, wall coverings, lighting, etc.), add new meeting technology (audio-video capabilities, wireless access and controls, etc.) and improving the functionality of the spaces (acoustical quality, durability, efficiency, etc.). The Architect may suggest modification of the facility's interior design by the addition or removal of walls, possible enclosure of patio and breezeway spaces, etc. to add needed capacity, enhance security and provide greater usefulness.

#### **POLICY ISSUE:**

The proposed development of multipurpose facilities with the capability to be rapidly adapted as Alternate Emergency Operations Centers will significantly advance the

Board of Supervisors' goal of ensuring local and regional disaster preparedness and it's priority to provide A Safe Community.

The project to improve and update Harvest Hall will directly protect and enhance the County's investment in this important County facility and support the Board of Supervisors' priority to provide Efficient Delivery of Public Services.

**FISCAL IMPACT:**

This project will be funded from the \$2.5 million dollars in previously approved funds in the County Facilities Budget. The first phase of the project is estimated to cost \$400,000, which includes \$335,820 for architectural services and siting analysis and \$64,180 in project administration costs.

**BOARD OF SUPERVISORS' PRIORITY:**

The proposed project to consider Alternate Emergency Operations Center Siting options are needed to enhance emergency operations responses given various possible conditions throughout the community.

Improvements to Harvest Hall will support the Alternate Emergency Operations Center development concept and goals, but will also refresh the well-used facility to provide new and improvement functionality to the space. This portion of the project will support the goals of improving customer satisfaction, energy efficiency and improving the efficiency of County Government processes.

**STAFFING IMPACT:**

The identification and creation of Alternate Emergency Operations Center site will enhance the County's ability to provide response in disaster situations, but will not have a regular staffing impact of existing County operations.

Harvest Hall is not permanently occupied by County staff, and its improvement project will not result in any County staffing impact once the project is completed. During the improvement project, existing County staff will monitor and inspect the work.

**CONTACT PERSON:**

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

**ATTACHMENT(S):**

1. Professional Agreement

**ARCHITECTURAL SERVICES**  
**FOR THE**  
**STANISLAUS COUNTY**  
**ALTERNATE EMERGENCY OPERATIONS CENTER SITE ANALYSIS AND**  
**HARVEST HALL IMPROVEMENTS PROJECT**  
**MODESTO, CALIFORNIA**



**Professional Services Agreement**  
**for Architectural Services**

## PROFESSIONAL SERVICES AGREEMENT

This Agreement For Professional Services is made and entered into by and between the County of Stanislaus ("County") and **BROWN REYNOLDS WATFORD ARCHITECTS**, whose address is 1620 Montgomery Street, Suite 320, San Francisco, California ("Architect"), on **December 12, 2017**.

### Introduction

WHEREAS, the County has a need for professional services relating to the ARCHITECTURAL DESIGN of the County's **Stanislaus County Alternate Emergency Operations Center Site Analysis and Harvest Hall Improvements Project ("Project")**; 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 the RFP and Consultant's proposal to the RFP for Project, which by this reference is made a part hereof ("Proposal") and **Appendix A (Description and Scope of Project)** 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 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 the Proposal and **Appendix A (Description and Scope of Project)**, 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, County and local 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 an hourly basis, not to exceed the total of each phase.. Payment shall be as specified in section 2.3.

Task A. Alternate EOC Site Analysis, including report.....	\$40,210.00
Task B. Harvest Hall Improvements Project:	
Option 1. Conceptual/Schematic Design.....	\$43,610
Option 2. Final Design including Construction Documents.....	\$198,000
Option 2a. Emergency Power System Specification and SJVAPCD Permitting Assistance .....	\$7,500
Option 3. Bidding, Pre-Bid Meeting, Addenda Assistance .....	\$3,500
Option 4. Construction observation, progress and RFI Assistance and Project Closeout, Punchlist Assistance.....	\$43,000
Total, Not-to-Exceed Price for Harvest Hall Project.....	\$295,610
<b>TOTAL PROJECT(TASK A AND B) NOT-TO-EXCEED PRICE .....</b>	<b>\$335,820</b>

Consultant's hourly rates and rates for additional services shall not exceed the following:

**BRW Architects**

- Project Principal I Project Manager: \$185
- Project Architect I LEED Professional: \$160
- Project Coordinator: \$120
- Designer I Drafter: \$70 to \$95
- Specification Writer: \$120
- Administration Staff: \$70

**Engineers**

- Principal Engineer: \$175 to \$185
- Project Engineer / Landscape Architect: \$140 to \$160
- Designer/ Production: \$70 to \$110

**Cost Estimator**

- Project Manager: \$180
- Cost Estimator: \$150



Professional Services Agreement for Architectural Services  
between BRW Architects and Stanislaus County for  
Alternate Emergency Operations Center Siting Analysis and Harvest Hall Improvements

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 5% 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, bid options one, two, three and four, shall be released upon award of the construction contract. Retention withheld during the Construction Administration Option. Option five, 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 beyond 60 days, (other than delays relating to the bidding and award of the General Construction Contract), 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 with or without cause upon 15 days prior written notice. Termination of this Agreement without cause 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 **F. Christopher Ford, Project Principal and Consulting Project Manager**. Owner hereby designates **Patricia Hill Thomas as Project Manager**. 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.

Substitution of personnel named in the Proposal during the proposal process or during performance of the Services shall require the County's written approval. Consultant shall submit a written request for the substitution, including the reason for the requested substitution and a detailed resume for the new proposed person demonstrating that he or she meets the minimum requirements for the position. The substituted personnel must, in the County's opinion, meet the minimum qualifications for the position being filled.

#### 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 in 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

**Consultant's Duty to Show Proof of Insurance.** Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

7.1 Coverage shall be at least as broad as:

**7.1.1 Commercial General Liability (CGL)**

Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project / location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

**7.1.2 Automobile Liability**

If the Consultant or the Consultant's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under the Agreement Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

**7.1.3 Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(Not required if consultant provides written verification it has no employees)

**7.1.4 Professional Liability (Errors and Omissions)**

Insurance appropriate to the Consultant's profession, with limits not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Consultant maintains broader coverage and / or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and / or higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

**Application of Excess Liability Coverage**

Consultants may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance Provisions.

**7.2 Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

**7.2.1 Additional Insured / Waiver of Subrogation**

The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form

of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

#### 7.2.2 Primary Coverage

For any claims related to this contract, the **Consultant's insurance shall be primary** for insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

#### 7.2.3 Waiver of Subrogation

Consultant hereby grants to County a waiver of any right to subrogation which any insurer of said Consultant may acquire against the County by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

7.2.4 **Reporting:** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials employees, agents or volunteers.

#### 7.2.5 Notice of Cancellation

Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

#### 7.2.6 Self-Insured Retentions

Self-insured retentions must be declared to and approved by the County. The County may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

#### 7.2.7 Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

#### 7.2.8 Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

#### 7.2.9 Verification of Coverage

Consultant shall furnish the County with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. **All certificates and endorsements are to be received and approved by the County before work commences.** However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The County reserves the right to complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

#### 7.2.10 Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that County is an additional insured on insurance required from subcontractors.

#### 7.2.11 Insurance Limits

The limits of insurance described herein shall not limit the liability of the Consultant and Consultant's officers, employees, agents, representatives or subcontractors. Consultant's obligation to defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the PO for Consultant to procure and maintain a policy of insurance.

### **8. Indemnification**

8.1 Indemnification: To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), Consultant shall defend, indemnify, and hold harmless Stanislaus County, its officers, directors, officials, agents employees, and volunteers (collectively "**Indemnitees**") from and against any and all claims, suit, action, loss, cost, damage, injury (including, without limitation, economic harm, injury to or death of an employee of Consultant or its Subconsultants) expense and liability of every kind, nature, and description, at law or equity, that arises out of, pertain to, or relate to (including without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) any negligence, recklessness, or willful misconduct of Consultant, any Subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively "**Liabilities**"). Such obligations to defend, hold harmless and indemnify and Indemnitee shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence active negligence, or willful misconduct of such Indemnitee but shall apply to all other Liabilities.

8.2 Duty to Defend: Consultant shall defend, indemnify and hold harmless the Indemnitees from all loss, cost damage, expense, suit, liability or claims, in law or in equity, including attorneys' fees, court costs, litigation expenses and fees of expert consultants or expert witnesses, 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 Owner, or any of the other Indemnitees of articles or Services to be supplied in the performance of this Agreement.

8.3 Owner shall include a provision in the construction contract with the general contractor on the Project requiring the general contractor to indemnify Consultant for damages resulting from the negligence of the general contractor and its subcontractors. Owner shall also include a provision in the construction contract with the general contractor on the Project requiring the general contractor to name Consultant as an additional insured on its Comprehensive General Liability insurance coverage. If the Consultant has the opportunity to review the construction contract prior to bidding, the risk of an

inadvertent omission of such provisions is on Consultant.

8.4 Consultant shall place in its subconsulting agreements and cause its Subconsultants to agree to indemnities and insurance obligations in favor of Owner and other Indemnitees in the exact form and substance of those contained in this Agreement.

8.5 Owner acknowledges that the discovery, presence, handling or removal of asbestos products, polychlorinated biphenyl (PCB) or other hazardous substances which may presently exist at the [any] Project site is outside of Consultant's responsibilities and expertise and is not included in the scope of Services Consultant is to perform nor included in Consultant's insurance. Owner shall hire an expert consultant in this field if the Project involves such materials. Consultant shall not be responsible or be involved in any way with the discovery, presence, handling or removal of such materials. Consultant shall be responsible to coordinate with Owner's expert consultant as required by Article 2.3 of Appendix A, Services To Be Provided By Consultant.

8.6 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.

8.7 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.

## **9. Status of Consultant**

9.1 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.

9.2 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.

9.5 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.

9.4 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.

9.5 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.

9.6 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.

9.7 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.

## **10. Records and Audit**

10.1 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.

10.2 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.

## **11. 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.

**12. 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.

**13. 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.

**14. 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  
1010 10<sup>th</sup> Street, Suite 2300  
Modesto, CA95354  
(209) 525-4380 (phone)  
(209) 525-4384 (fax)

**To Consultant:** Brown Reynolds Watford Architects (BRW Architects)  
1620 Montgomery Street, Suite 320  
San Francisco, CA 94111  
(415) 749-2670 (phone)  
(415) 749-2672 (fax)

**15. 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**


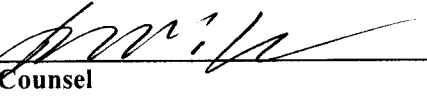
Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather 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.

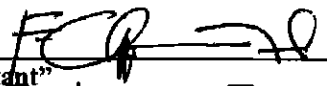
Professional Services Agreement for Architectural Services  
between BRW Architects and Stanislaus County for  
Alternate Emergency Operations Center Siting Analysis and Harvest Hall Improvements

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

<p><b>COUNTY OF STANISLAUS</b></p> <p>By:  _____ "County"</p>	<p><b>BROWN REYNOLDS WATFORD ARCHITECTS</b></p> <p>By: _____ "Consultant"</p>
<p><b>APPROVED AS TO FORM:</b></p> <p>By:  _____ County Counsel</p>	

Professional Services Agreement for Architectural Services  
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<p><b>COUNTY OF STANISLAUS</b></p> <p>By: _____ "County"</p>	<p><b>BROWN REYNOLDS WATFORD ARCHITECTS</b></p> <p>By:  _____ "Consultant" F. Christopher Ford, Principal</p>
<p><b>APPROVED AS TO FORM:</b></p> <p>By: _____ County Counsel</p>	

APPENDIX A (To Professional Services Agreement)  
SCOPE OF WORK

**1. THE PROJECT DESCRIPTION**

See Exhibit A in the Request for Proposals dated \_\_\_\_\_.

**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 Alternate EOC Site Analysis, Task A:** The Architect/Consultant shall complete the collection of data and analysis of needs and risks for evaluation of alternative EOC sites, shall research and recommend at least two alternative EOC sites (other than 3705 Oakdale Road and 3800 Cornucopia Way, Modesto), meet with the Project Team and stakeholders, document and present the methodology and findings per the Description and Scope of Project defined in Exhibit A in the Request For Proposals dated \_\_\_\_\_.

**2.3 Harvest Hall Improvements, Task B:**

2.3.1 **Schematic Design, Option 1:** The Architect shall complete the Schematic Design, including Design Development, phase within 60 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.

- 2.3.2 Construction Documents Phase, Option 2:** The Architect shall complete the Construction Documents Phase within 90 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.
- 2.3.4 Bid Phase, Option 3:** The Architect shall complete the tasks required under the Bid Phase within 180 calendar days after receipt of County's written authorization to proceed unless otherwise agreed to by the County.
- 2.3.5 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 120 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 6 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.

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

**2.9. 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, will be based on the preliminary conceptual estimate developed by the County or the revised estimate developed as part of the final scope from Task B 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, shall be established by the County based on the planning and program analysis within the Schematic Design phase and shall be agreed in writing by the County and Architect.

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**

Professional Services Agreement for Architectural Services  
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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.

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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."

Project 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.



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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.

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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/Stanislaus County areas. This definition will take precedence to others used in this agreement. Other provisions of this Agreement not

withstanding, all services performed under this Agreement shall be performed in a manner which meets this standard.

Subconsultant: 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/Project 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 Review site surveys, subsoil data, chemical, mechanical, and other data logs of borings, etc., furnished to the Architect by the County or County's consultants. If the Architect, or where appropriate their consulting engineers, determines that the information provided is not adequate or sufficient to enable the Architect, or where appropriate its consulting engineers, to perform their services, the Architect shall inform the County of any such deficiencies. The Architect and Consultants shall not be responsible for the accuracy or contract of the data provided by the County.

5.1.4 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.

5.1.5 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.

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

5.1.7 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.

5.1.8 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.

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

5.1.10 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 including Design Development 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 Subconsultant 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.

**5.5 Deliverables:** Provide all deliverables required under this contract.

**5.6 Not Used**

**5.7 Architect and Consultant Services:**

5.7.1 **Alternative EOC Site Analysis, Task A:** The Architect/Consultant shall complete the collection of data and analysis of needs and risks for evaluation of alternative EOC sites, shall research and recommend at least two alternative EOC sites (other than 3705 Oakdale Road and 3800 Cornucopia Way, Modesto), meet with the Project Team and stakeholders, document and present the methodology and findings. The Architect shall prepare all necessary maps, reports, findings, recommendations in a draft report to the Project Manager for review by the Project Team; make a presentation to the Project Team of the draft findings; receive and incorporate any comments or direction from the Project Team; provide a final report to the Project Manager; prepare and make a presentation to the Board of Supervisors or as directed by the Project Manager. The report's recommendations shall describe the advantages and disadvantages of alternate Emergency Operations Center locations in various regions defined by potential for risk avoidance, using, where possible, suggested interim re-use of existing County or public facilities. The report and presentation shall incorporate all maps, graphics, and written findings and recommendations to convey the determinations of the Architect and the Project Team.

5.7.2 **Harvest Hall Improvements Schematic Design, including Design Development Option 1:**

**Program:** The Architect shall develop a program, including but not limited to a report of the space requirements for the Project. The program shall include a review of the available data, space, and equipment, and incorporated it into the Program. The Schematic Design Studies shall incorporate the program requirements.

**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:

5.7.2.1 **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 buildings and park form, scale and relationship of the project components, character, functional planning solutions, and outline of the building and park 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, park planning, mechanical, structural, and electrical concepts. The Architect will provide the

County a minimum of 3 design concept schemes for their review and approval before proceeding with the final schematic design.

5.7.2.2 Meetings:

5.7.2.2.1 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.

5.7.2.2.2 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.

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

5.7.2.3 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.

5.7.2.4 Value Engineering:

5.7.2.4.1 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.

5.7.2.4.2 Attend a one day formal value engineering session. Attendees shall include Architects Principal In Charge, Project Manager and/or her designees, Design Architect, and Project Architect and Architects primary subconsultants including as a minimum the cost estimator, structural engineer, mechanical engineer, and electrical engineer.

5.7.2.5 Site Visit and Investigations

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

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

5.7.2.5.3 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.

5.7.2.6 Recommendations on Required Additional Information

5.7.2.6.1 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.

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

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

#### 5.7.2.7 Deliverables

5.7.2.7.1 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.

5.7.2.7.2 The Architect shall provide for State and County approval:

- 1) Floor plans, with room names, no less than 1/8" = 1'-0" scale, showing gross square footage.
- 2) At least two (2) sections and prints of the buildings in scale of no less than 1/16" = 1'-0" fully describing interior/exterior volumes and relationship with floor plan.
- 3) Specification outline and a written description of the major systems, including but not limited to, security, HVAC, fire protection, plumbing, electrical, and signage/graphics.
  - a. One reproducible copy of outline specifications including description of the site, architectural, structural, mechanical, and electrical systems and materials proposed, which describe performance requirements.
  - b. One hard copy and electronic in PDF Format:
  - c. Preliminary project schedule.
  - d. Preliminary cost estimate.
  - e. Architect task list and schedule for Design Development Phase.
  - f. Written concurrence that design for the Project can be developed within the County's budget.

5.7.2.8 Final Submittal: For the Final Submittal, the Architect will allow four (4) weeks for the State and 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.



5.7.2.8.1 Presentation to the Board of Supervisors for approval, if required.

5.7.2.8.2 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.

5.7.2.8.3 Estimate of Construction Costs and Schedule.

5.7.2.8.4 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) Schematic rendering.

## **5.8 Construction Documents Phase, Option 2:**

This phase commences only after the County has approved the Design Development 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 and Design Development 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 Design Development 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 Project Manager will plan for at least five (5) 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 two (2) sets of electronic drawings, PDF Format and CADD, one (1) set of reproducibles and one copy with addendum items included for progress prints each month and/or review meeting.

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 structural, civil, 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 reproducible and electronic copy of the specifications at 95% and 100%.
- 2) Submit one copy, one reproducible, and two electronic copies (PDF format and CADD) of the drawings and plans at 95% and 100%.
- 3) Suggested construction project schedule and electronic copy.
- 4) Final detailed cost estimate at 95% and 100%.

5.8.13 95% and 100% Final Submittal:

5.8.13.1 95% Submittal: The Architect shall submit all required Contract Documents to the County as a package, with all items completed. County will review and return a check set of documents to the Architect with comments within 5 days of receipt.

- 5.8.13.2 100% Submittal: The County will review and return comments within 5 days. 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.
- 5.8.13.3 Presentation to the Board of Supervisors for approval.
- 5.8.13.4 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.
- 5.8.13.5 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.

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- 5.9.6 Assist County in advertising for and obtaining bids for each separate prime contract for construction materials, equipment and evaluating bids.
- 5.9.7 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.
- 5.9.8 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.
- 5.9.9 Issue written addenda as appropriate to interpret, clarify or expand the bidding documents including allowable substitutions of materials and equipment.
- 5.9.10 Attend the bid opening and assist County in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.
- 5.9.11 Review and make recommendations on all substitution requests within five days before the scheduled bid opening per Public Contract Code 3400.
- 5.9.12 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:
  - 5.9.12.1 Award the contract to the lowest responsible, responsive bidder, and give written approval of increase in County's budget.
  - 5.9.12.2 Reject all bids and rebid the contract.
  - 5.9.12.3 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.
  - 5.9.12.4 Abandon the Project and terminate this Agreement or not approve proceeding with the next option.
- 5.9.13 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:**

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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 Project 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 Project 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 Project 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 five (5) working 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 Project 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 same-day, e-mail, over-night, or hand carry, if necessary, answers to clarifications/RFI's at no additional charge to the County.

5.10.5.3 The Architect shall prepare supplementary drawings and specifications required for clarifications/RFI's and/or changes to the documents.

5.10.6 Submittals: As requested by the Project Manager, the Architect shall review and recommend appropriate action on Submittals, shop drawings, erection drawings, and samples

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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 of 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 The Architect will same-day, e-mail, over-night, or hand carry, if necessary, responses of all submittals at no additional cost to the County.

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 Project 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 on email and CADD format whenever possible.

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 Project 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 Project 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 Project Manager. The Architect's (and Consultant's) representative making site visits will be an experienced and qualified design and Construction Administration Professional who has 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 Project 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 Project 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 Project Manager. The Project Manager will make the final determination.

5.10.10.1 Upon request of the Project Manager, the Architect shall prepare and sign all necessary contract change orders and return them to the Project 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 Project 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 Project Manager unless otherwise agreed to by the Project 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 suitable loose-leaf binders, and provide same to the Architect who shall verify its completeness.

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 forward hard and electronic copies thereof to the Project 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 Project Manager's personnel and abide by the Project Manager's procedures. The Architect will provide all documents and reports in hard copy and digital data format as requested using the Internet where possible.

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 sent by fax and/or e-mailed immediately to Project Manager. This includes all email transmissions received and sent; an electronic copy will be forwarded to the Project 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 reproducible 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 building systems and CSI 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/Schematic and Design Development 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 Project 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 Scope and Quality Adjustments After Approval of Schematic Design and Development Phase:** At any time after County approval of the Design Development Phase Documents, and prior to issuance of the Contract Documents for bidding, should any part of the County organization elect to make any major additions to the quality or scope of the Project, the Architect shall initiate a change notice to the Project Manager for approval by the County and prepare a revised estimate of the construction cost to reflect the cost of the scope change. Should such revised estimate of the construction cost exceed the budget, the County and Architect shall review the Project to determine what revisions would reasonably be expected to bring the estimated cost within budget. The Architect shall thereafter prepare a revised estimate of the construction cost, incorporating the mutually agreed revisions. When approved by County, such revised estimate of construction cost shall become the new County-approved budget. The Architect shall be compensated for any such necessary revisions to the Contract Documents and cost estimates as an Additional Service, as provided herein, after the Design Development Option. Note: As set forth in Paragraph IV, the County may increase the construction budget by five percent at no increase in fee.

**6.6 Architects Obligation to Modify Documents:**

6.6.1 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.

6.6.2 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.

6.6.3 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.

## **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 Design Development 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

**Alternate Emergency Operations Center and Harvest Hall Improvements  
Project Schedule**

<i>Activity</i>	<i>Date</i>
<b><u>Consultant Analysis and Plan (Alternate EOC Planning)</u></b>	
Notice to Proceed for Alt. EOC Site Planning Analysis	12/20/2017
Draft Report of Alternate EOC Site Planning Analysis	4/6/2018
County Project Team Review	4/20/2018
Final Report of Alternate EOC Findings and Recommendations	5/18/2018
Emergency Svcs. JPA Review of Findings and Recommendations	6/13/2018
Board Capital Facilities Committee Briefing	6/13/2018
County Board Approval of Construction Documents, Approval to Bid, and Review of Alternate EOC Siting Report	7/3/2018
<i>Activity</i>	<i>Estimated Date</i>
<b><u>Architectural Services (Harvest Hall Improvements)</u></b>	
Schematic Design Complete	2/16/2018
Construction Documents Complete	3/30/2018
Plan Check	4/27/2018
County Approval of Construction Documents, Approval to Bid, and Review of Alternate EOC Siting Report	5/18/2018
Emergency Generator SJVAPCD Permitting Assistance	12/14/2018
<b><u>Contractor Procurement (Harvest Hall Improvements)</u></b>	
Issue Notice Inviting Bids	6/22/2018
Mandatory Pre-Bid Conference	7/18/2018
Final RFI due from Bidders	7/27/2018
Final Addenda issued	7/31/2018
Construction bids DUE	8/15/2018
Notice of Intent to Award	8/21/2018
Board of Supervisors Award of Contract	8/28/2018
Construction Notice to Proceed "NTP"/Project Kick Off Meeting	8/30/2018
Construction Substantial Completion (90 days from NTP)	11/30/2018
Final Construction Completion (15 days from Subst. Compl.)	12/14/2018
Department Occupancy	1/2/2019