

ATTACHMENT 2 – REQUEST FOR PROPOSALS



*one* COUNTY | *one* FUTURE

**Request for Proposals (RFP) to Prepare  
Zoning Ordinance Amendments to  
(1) Update Commercial and Residential Regulations &  
(2) Relax Permitting Requirements for Certain Uses & Development**

**Issued: August 24, 2022**

**Questions Due: September 12, 2022**

**Deadline for Submission: September 26, 2022**

**Submit all questions and proposals to:**

County of Santa Barbara  
Long Range Planning Division  
Dan Klemann, Deputy Director  
[dklemann@countyofsb.org](mailto:dklemann@countyofsb.org)  
123 E. Anapamu Street, Santa Barbara CA 93101

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## I. PROJECT INTRODUCTION

The Long Range Planning Division of the County of Santa Barbara (County) Planning and Development Department (P&D) seeks proposals from qualified consultants to perform tasks associated with the preparation of zoning ordinance amendments to (1) change the development standards and allowed uses in certain commercial and residential zones, and (2) relax certain permitting requirements. This project will involve working with P&D staff, the public, interest groups, boards of architectural review, and decision-makers to:

- Comprehensively update the County's sign regulations
- Either rezone to another commercial designation, or substantially revise/update the regulations that apply to, property that is located in the Shopping Center (SC) zone
- Allow residential mixed use development in all commercial zones
- Revise the Design Residential (DR) zone and Planned Residential Development (PRD) zone development standards to incentivize residential development for very low and low income categories
- Develop countywide outdoor lighting standards that address light pollution, energy efficiency, site security, community character, etc.
- Relax the permitting requirements for certain uses/development

## II. SCOPE OF WORK & PROJECT DELIVERABLES

### A. Project Location

The zoning ordinance amendments will apply to the unincorporated areas of Santa Barbara County and, consequently, will involve amendments to the County's [Land Use and Development Code](#), [Article II Coastal Zoning Ordinance](#), and [Montecito Land Use and Development Code](#), and other, related components of the [County's Comprehensive Plan](#)

### B. Project Background

The County's zoning ordinances consist of the:

- [Land Use and Development Code](#), which sets forth the zoning regulations for property located within the Inland Area of the unincorporated county, yet outside of the area that is subject to the Montecito Community Plan

- [Article II Coastal Zoning Ordinance](#), which sets forth the zoning regulations for property located within the Coastal Zone of the unincorporated county
- [Montecito Land Use and Development Code](#), which sets forth the zoning regulations for property located within the Inland portion of the area that is subject to the Montecito Community Plan

Changes in State law, development patterns, building requirements, economic trends, etc., since the adoption of the current zoning regulations, have created a need to update certain regulations set forth in the County’s zoning ordinances—particularly, regulations that apply to commercial and residential development.

For example, decision-makers, developers, and planners have identified possible improvements to the allowed uses in, and certain development standards that apply to, the SC zone, as well as the County’s lighting regulations. The County’s current update to its adopted housing element also has revealed a critical need for additional residential development, particularly in jobs-rich areas (e.g., commercially developed, urban areas) and involving units for very low and low income categories.

Finally, most uses and development in the unincorporated county require the issuance of a discretionary permit, although it may be appropriate to allow at least some of these uses and development with ministerial permits, or without permits. Current discretionary permitting requirements disincentivize the construction of new housing in particular, and require updates to be consistent with certain State housing and density bonus laws.

Therefore, as part of the adoption of the P&D budget and [Long Range Planning Division Work Program for Fiscal Year \(FY\) 2022 – 2023](#), the County Board of Supervisors (Board) acknowledged the need to update the zoning ordinances and directed staff to retain consultant services to assist with the preparation of the following amendments for the Board’s consideration:

- Comprehensively update the County’s sign regulations
- Either rezone (and possibly revise the regulations that apply) to another commercial zoning designation, or substantially revise/update the regulations that apply to, property that is located in the SC zone
- Allow residential mixed use development in all commercial zones
- Revise the DR zone and PRD zone development standards to incentivize residential development for very low and low income categories

- Develop countywide outdoor lighting standards that address light pollution, energy efficiency, site security, community character, etc.
- Relax the permitting requirements for certain uses/development (e.g., require ministerial instead of discretionary permits for certain uses/development, and/or make certain uses/development exempt from permitting requirements)

### C. Project Team

The project team will consist of (1) Long Range Planning Division staff (e.g., Deputy Director, a senior planner who will serve as the project manager, and other planners as support staff) and (2) a consultant team. The project team will be responsible for conducting public outreach, preparing zoning ordinance and—if needed—corresponding general plan and Local Coastal Program amendments, preparing amendments to the County’s CEQA administrative documents, the [P&D Standard Conditions and Mitigation Measures document](#), presenting amendments to boards of architectural review, preparing the California Environmental Quality Act (CEQA) document, and attending decision-maker hearings.

### D. Project Objective

The objective of the project is to implement the following amendments to the County’s zoning ordinances:

- **Comprehensively update the County’s sign regulations.** The County’s sign regulations have not been substantially updated in over 30 years. Both developers and planners have identified limitations and challenges with the existing regulations that compromise the quality of design, efficacy of signage, etc. This project will involve working with the County’s boards of architectural review, developers, public, and staff to comprehensively update the County’s sign regulations.
- **Either rezone (and possibly revise the regulations that apply) to another commercial zoning designation, or substantially revise/update the regulations that apply to, property that is located in the SC zone.** The types of uses that are allowed in the SC zone are outdated and limiting, and must be expanded to account for the types of uses that are typically found in, and appropriate for, the SC zone. In addition, certain development standards (e.g., sign regulations) require updates. This project will involve either substantially updating/modernizing the SC zone regulations, or rezoning properties that are subject to the SC zoning designation to another commercial zoning designation which is better suited for currently SC-zoned properties—and, if needed, amending the new commercial zoning designation(s) for the properties that are currently zoned SC, in order to accommodate suitable development and uses.

- **Allow residential mixed use development in all commercial zones.** County staff currently are working on an update to the County’s housing element. This update has revealed the need to allow for additional housing options in urban, jobs-rich areas. Therefore, this project will include amendments to the County’s zoning ordinances to allow mixed use residential/commercial development in all commercial zones.
- **Revise the DR and PRD development standards to incentivize residential development for very low and low income categories.** Certain development standards for the DR and PRD zones (e.g., parking standards) limit developers’ ability to provide higher densities, particularly for much-needed housing for very low and low income families. This project will involve amending the development standards in order to incentivize the development of greater numbers of units for very low and low income families.
- **Develop countywide outdoor lighting standards that address light pollution, energy efficiency, site security, community character, etc.** The County has a number of [community and area plans](#) that include lighting standards that are similar to, but are slightly different from, one-another. Also, many discretionary development projects are subject to CEQA mitigation measures to control light pollution that otherwise could be addressed as zoning regulations and without the preparation of an environmental document. This project will involve updating the County’s zoning regulations regarding lighting in order to: (1) eliminate unnecessary differences in lighting standards that apply to similarly situated areas of the County; (2) develop standards that are appropriate to the various zones and areas of the county, and compliance with which will result in insignificant environmental impacts pursuant to CEQA. These amendments likely will require amendments to the County’s community plans, area plans, CEQA environmental thresholds (e.g., thresholds for aesthetics/visual impacts), and County’s standard conditions/mitigation measures (e.g., aesthetics-related conditions of approval).
- **Relax the permitting requirements for certain uses/development (e.g., require ministerial instead of discretionary permits for certain uses/development, and/or make certain uses/development exempt from permitting requirements).** Most development and uses in the unincorporated county require approval of a discretionary land use entitlement (e.g., Land Use Permit, Conditional Use Permit, and/or Development Plan). However, a ministerial land use entitlement or no land use entitlement may be more appropriate for some of these uses and types of development. This project will involve amending the zoning ordinances to reduce the permitting requirements for certain uses and development (e.g., new residential development and/or change in use of a unit within a multi-tenant commercial building).

## E. Required Tasks and Deliverables

The project tasks and deliverables are described below.

### ***Task 1: Kick-Off Meeting***

The consultant shall coordinate a virtual kick-off meeting among the Project Team within 10 working days of authorization to commence work. The kick-off meeting will allow the Project Team to review the project objectives and scope of work, establish communication and document review protocols, and review the project schedule. To prepare for the kick-off meeting, the consultant shall review the relevant portions of the following County and State documents that will be amended, or on which the consultant must rely, as part of this project, and identify any additional information and/or data required for the project:

- [Land Use and Development Code](#)
- [Montecito Land Use and Development Code](#)
- [Article II Coastal Zoning Ordinance](#)
- [Community and Area Plans](#)
- [Comprehensive Plan Elements](#)
- [Environmental Thresholds and Guidelines Manual](#)
- [Guidelines for the Implementation of CEQA](#)
- [State CEQA Guidelines](#)
- [P&D Standard Conditions and Mitigation Measures](#)

#### Task 1: Deliverables:

- Coordinate, schedule, and lead one virtual kick-off meeting with the Project Team, and prepare the meeting agenda and minutes.

### ***Task 2: Preparation of Project Description***

#### ***Task 2a: Develop Draft Project Description***

The consultant shall prepare a draft project description that includes the draft amendments for the Project Team's review/approval.

#### Task 2a Deliverables:

- Prepare an administrative draft project description that sets forth the draft amendments for the Project Team's review.
- Prepare a public version of the draft project description that sets forth the draft amendments—with staff's comments and edits on the administrative draft project description addressed/incorporated.



### **Task 2b: Confirmation of Project Description**

The consultant shall (1) develop and implement an outreach plan to solicit feedback from the public, subject matter experts (e.g., industry representatives), and the County's subject matter experts (e.g., AAC, APAC, and [boards of architectural review](#)) and (2) present the draft project description to the Montecito Planning Commission, County Planning Commission, and, ultimately, the Board, in order to finalize the project description and confirm the scope of analysis, prior to engaging in environmental review for the project.

#### Task 2b Deliverables:

- Work with the Project Team to develop and implement a public outreach plan that includes diverse techniques (e.g., web-based surveys, tailored outreach methods for disadvantaged communities and/or subject matter experts, and virtual, in-person, and/or hybrid workshops/meetings) to solicit feedback on the amendments.
- Present the project description for input at one meeting of the AAC, APAC, and each board of architectural review.
- Present the project description at one hearing of the [Montecito Planning Commission](#), [County Planning Commission](#), and, ultimately, [the Board](#), for confirmation of the project description for environmental review.
- Prepare, or provide needed content and support to County staff to prepare, all outreach materials, presentation materials, notices, and staff reports for the workshops, meetings, and hearings involved with this Task 2b, using County-approved templates and pursuant to County standards.

### **Task 3: Preparation of CEQA Environmental Document**

The consultant shall prepare either a programmatic environmental impact report (EIR) or (Mitigated) Negative Declaration ((M)ND) that analyzes the impacts of the Board-approved project description resulting from Task 2b (above), pursuant to the State's and County's requirements for the preparation of CEQA environmental documents.

#### Task 3 Deliverables:

- Prepare an initial study to determine if an EIR or (M)ND must be prepared for the project.
- If an EIR is required, conduct either a virtual or hybrid scoping meeting at which to solicit public agency and public feedback on the scope of the environmental review.
- Prepare an administrative draft EIR or (M)ND for County staff's review.

- Incorporate County staff’s edits and address County staff’s comments on the administrative draft EIR or (M)ND, and prepare/publish a draft EIR or (M)ND for public review.
- Respond to comments received on the draft EIR or (M)ND and include them—along with any edits, additions, etc., to the draft EIR or (M)ND resulting from them—in a final administrative draft EIR or (M)ND for County staff’s review.
- Incorporate County staff’s edits and address County staff’s comments on the final administrative draft EIR or (M)ND, and prepare a final EIR or (M)ND for decision-makers’ consideration.
- Attend at least one environmental hearing, Montecito Planning Commission hearing, County Planning Commission hearing, and Board hearing regarding the adoption of the final EIR or (M)ND.
- The consultant shall prepare all draft documents, outreach materials, required sections, a mitigation and monitoring program, project alternatives, etc., required for the EIR or (M)ND, and assist County staff with the preparation/publication of any and all notices related to the EIR or (M)ND (e.g., Notice of Preparation, Notice of Completion, Notice of Availability, and Notice of Decision).

***Task 4: Decision-Maker Adoption Hearings and Coastal Commission Certification***

The consultant’s attendance at decision-maker hearings—in addition to the ones identified in Tasks 2 and 3 (above)—might be required in order to adopt the amendments involved with this Project. For example, additional hearings may be required to provide specific information that decision-makers request at hearings, revise draft documents based on decision-makers’ direction, or account for unforeseen scheduling/hearing delays.

Although it is anticipated that consultant services will not be required to conduct the Coastal Commission certification process for the Local Coastal Program Amendment that will be required for this project, County staff might require assistance from the consultant on at least certain tasks associated with this process.

**Task 4 Deliverables:**

- Attend, and/or otherwise support County staff with certain tasks associated with: (1) County decision-maker hearings—in addition to the hearings identified in Tasks 2 and 3 (above); and/or (2) Coastal Commission certification of the Local Coastal Program Amendment for this project.

## F. Project Management

The key project management expectations and information for the selected consultant include the following:

- **Project Status.** The Project Team shall meet on a bi-weekly basis in-person, by phone, or virtually. The purpose of these meetings is to briefly update County staff on the status of the project. The consultant shall prepare agendas and minutes for each meeting and distribute them to the Project Team.
- **Schedule Management.** The consultant shall meet the project schedule approved in the final contract and communicate any possible subsequent changes to the project timeline to the County project manager.
- **Standards of Document Quality.** The selected consultant shall provide complete and thorough documents written without grammatical or punctuation errors. All documents shall be written following *The Chicago Manual of Style* and using the formatting, style of prose, etc., of the County documents that will be amended as part of this project (e.g., zoning ordinances and general plan elements). A qualified member of the selected consultant's team shall perform final quality assurance/quality control review on all documents.
- **County Designated Representative.** P&D's Long Range Planning Division shall provide direction, oversight, and review of all work that the consultant performs. The County currently is recruiting to fill the Project Manager position for this project and will notify the consultant as soon as a candidate is selected. Until that time, the County contact shall be:

### III. COUNTY DESIGNATED REPRESENTATIVE

Dan Klemann, Deputy Director, Long Range Planning Division, or designee  
County of Santa Barbara Planning & Development ("County")  
123 E. Anapamu Street  
Santa Barbara, CA 93101  
dklemann@countyofsb.org

#### **IV. RFP TIMETABLE**

<b>Task</b>	<b>Completion Date</b>
Release RFP	August 24, 2022
Questions Due	September 12, 2022
Provide Responses to Questions	September 16, 2022
Addendum Release, if any	September 16, 2022
Submittal Date / Deadline	September 26, 2022
Potential Offeror Interviews	October 6, 2022
Offeror Selection	October 6, 2022
Contract Negotiation Complete	October 13, 2022
County Agreement Authorization	November 29, 2022

#### **V. PROPOSAL SUBMITTAL**

Offerors must submit the proposal to County's Designated Representative before 5:00 PM on the Submittal Date / Deadline.

Proposals shall be held in confidence and shall not be available for public review until the conclusion of the negotiation process. Thereafter, all proposals shall become public record.

County reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether that proposal is selected. Proposals will not be returned.

Submission of a proposal indicates acceptance by the offeror of the conditions contained in this request for proposal unless clearly and specifically noted in the proposal submitted and confirmed in the agreement between the County and the offeror selected.

#### **VI. SUBMITTAL QUESTIONS, ADDENDUM(S), CLARIFICATIONS, AND REVISIONS**

All questions regarding the RFP should be received no later than the September 12, 2022, by e-mail to the County's Designated Representative. The County's Designated Representative will respond in writing to all questions receive, by no later than the September 16, 2022.

If an addendum is issued to the RFP, it will be provided on or before September 16, 2022. The County has the discretion to extend the proposal submittal deadline if an addendum to the RFP is issued. It is the responsibility of offerors to determine if addenda have been issued. Any addenda to the RFP will become part of the RFP.

The County reserves the right to accept or reject any or all submittals received as a result of this request, or to modify or cancel in part, or in its entirety, the RFP if the County determines it is in the best interest of the County to do so.

Offerors may withdraw a Proposal, in writing, at any time up to the closing deadline. A written withdrawal notice must be received by the County. The notice must be signed by an authorized representative. If a previously submitted Proposal is withdrawn before the closing deadline, the offeror may submit another proposal at any time up to the closing deadline.

## **VII. PROPOSAL CONTENT**

This section describes the required Proposal format and content. The Proposal must contain the requested information organized by the prescribed sections. Each offeror shall submit a complete Proposal, providing all information requested with a complete description of the project plan. Failure to follow the prescribed format may result in rejection of the Proposal.

A Proposal may be rejected if it is conditional or incomplete, or if it contains any alteration of form or other irregularities of any kind. A Proposal may be rejected if any such defect or irregularity constitutes a material deviation from the submittal requirements.

Proposals shall contain sufficient detail to allow for thorough evaluation and comparison. They should be as concise as possible without compromising clarity. Offerors shall provide a digital copy of the proposal by either attaching the proposal to an email, or sending an email with a link to where the proposal can be downloaded, to Dan Klemann at [dklemann@countyofsb.org](mailto:dklemann@countyofsb.org). Proposals should include the following information, in sectionalized format:

- a. Introduction.** Overall understanding of the project and tasks; include any issues that may require special consideration. If a joint venture, please identify the prime contractor and all subcontractors.
- b. Qualifications.** Firm capabilities, brief history, organizational structure, top management (similar information for each joint venture participant and subcontractors, and approximate percentage of contribution), and relevant experience. Include the firm(s) type and tax identification or social security number.
- c. Staff.** Proposed project manager and relevant experience; an organizational chart showing project manager, key staff, and all supporting staff; brief resumes highlighting relevant qualifications; staff responsibilities, estimated hours, and percentage of total hours. Staff identified to work on the project must actually perform the work. The selected consultant must obtain County approval before making any staffing changes during the contract performance period.

- d. Required Tasks and Deliverables.** Approach toward accomplishing the required tasks and deliverables; definition of each task, including depth of analysis, and data to be used. Specify where and how existing and original data would be gathered. Identify any recommended changes to the required tasks and deliverables, and the basis for the changes based on the offeror's understanding of the project, expertise, and experience performing similar planning projects. A list of assumptions should be included that clearly defines the limits of the scope of work.
- e. Cost Proposal.** Itemized budget breakdown by task, deliverable, and cost proposal with estimated hours (total hours and project manager hours) and salary; administrative and overhead expenses; and indirect expenses. Please include a 10% contingency in your cost proposal. The County shall only release contingency funds if the selected consultant performs functions or carries out unanticipated work that is requested by the County and is within the contracted scope of work.
- f. Schedule.** Proposed schedule by required task and deliverable. The current, general schedule estimates completion of:
- Consultant Selection and Task 1 (Kick-Off Meeting) by fall 2022;
  - Task 2 (Preparation of Project Description) by winter 2023/2024;
  - Task 3 (Preparation of CEQA Environmental Document) by winter 2024/2025;
  - Task 4 (Decision-Maker Adoption Hearings) by spring 2025; and
  - Task 4 (Coastal Commission Certification) by summer/fall 2026.

The County will consider alternative schedules based on the offeror's experience and understanding of the scope of work. Proposed schedules shall be accurate and achievable and shall account for all required decision-maker hearings. (Currently, it takes approximately six weeks to prepare, conduct an administrative review of, and docket, an item for a decision-maker hearing.)

- g. References.** List of former clients receiving comparable services to what is requested in this request for proposals, including the project manager's name and telephone number.
- h. Insurance.** Summary of the firm's (and any sub-consultant's) insurance coverage. Minimum coverage and types of insurance that are required to be maintained throughout the term of the project are identified in Attachment 1, Exhibit C (Standard Indemnification and Insurance Provisions).

The selected consultant shall provide workers compensation insurance for all of its employees. The consultant must submit a certificate of insurance with the proposal to establish coverage, if such certificate is not already on file with P&D.

## **VIII. SELECTION PROCESS**

The proposal selection process is based on best value. Accordingly, the County may not necessarily make an award to the offeror with the highest technical ranking nor award to the offeror with the lowest price that is technically acceptable if doing so would not be in the overall best interest of the County.

The County will review all submitted proposals. Some offerors may be invited for in-person or phone interviews to explain their project approach and methodology. County staff will reach a consensus and make recommendations to the Planning and Development Director following evaluation of 1) written proposals and 2) performance at the oral interview, if applicable.

The Planning and Development Director will review the recommendation and make a final decision. If the Planning and Development Director selects a different offeror than the one recommended, the County Designated Representative, in consultation with the Planning and Development Director, will prepare a memo explaining the selection.

## **IX. RFP TERMS & CONDITIONS**

### **A. Limitations**

This RFP does not commit the County to award a contract, to pay any pre-contractual expenses, or to procure or contract for services or supplies. The County expressly reserves the right to reject any and all submittals or to waive any irregularity or informality in any submittal or in the RFP procedure and to be the sole judge of the responsibility of any offeror and of the suitability of the materials and/or services to be rendered. The County reserves the right to withdraw this RFP at any time without prior notice.

### **B. Award**

All finalists may be required to participate in negotiations and submit such price, technical, or other revisions of their proposals as may result from negotiations. The County also reserves the right to award the contract without oral briefings or discussion, based upon the initial written proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and a technical viewpoint.

### **C. Verbal Agreement or Conversation**

No prior, current, or post award verbal conversations or agreement(s) with any officer, agent, or employee of the County shall affect or modify any terms or obligations of the RFP, or any contract resulting from this RFP.

#### **D. Pre-contractual Expenses**

Pre-contractual expenses include any expenses incurred by offerors and selected contractor in:

1. Preparing submittals in response to this RFP
2. Submitting responses to the County
3. Negotiations with the County on any matter related to submittals.
4. Other expenses incurred by a contractor or offeror prior to the date of award of any agreement.

The County shall not be liable for any pre-contractual expenses incurred by any offeror or selected contractor. Offerors shall not include any such expenses as part of the price proposed in response to this RFP. The County shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

#### **E. Signature**

The proposal will also provide the following information: name, title, address, and telephone number of individual with authority to bind the offeror and also who may be contacted during the period of proposal evaluation. The proposal shall be signed by an official authorized to bind the offeror and shall contain a statement to the effect that the proposal is a firm offer for at least a ninety (90) day period. Execution of the contract is expected no later than the County Agreement Authorization Date listed above.

#### **F. Conflict of Interest Statement**

Offerors submitting proposals in response to this RFP must disclose to the County any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided under Agreement for offeror services to be awarded pursuant to this RFP. If the offeror has no conflict of interest, a statement to that effect shall be included in the proposal. The selected offeror shall refrain from and disclose subsequent potential conflicts during this contract.

#### **G. Contract Arrangements**

The successful offeror is expected to enter into an agreement based on the County's Standard Professional Services Agreement. A copy of the County's standard form contract for professional and technical services is included as Attachment 1.

The County reserves the right to negotiate the terms of the agreement, including the award amount, with the selected offeror prior to entering into a contract. If contract negotiations



cannot be concluded successfully with the highest-ranking offeror, the County may choose to negotiate a contract with the next highest ranking offeror, etc.

#### **H. Non-Discrimination**

The County's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this RFP and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and offeror agrees to comply with said ordinance.

#### **I. Americans with Disabilities Act (ADA) Provisions**

To comply with the nondiscrimination requirements of the Americans with Disabilities Act (ADA), the County makes every effort to ensure that its programs, activities and services are available to all persons, including persons with disabilities. For persons with a disability needing a reasonable modification to participate in the procurement process, or for persons having questions regarding reasonable modifications of the procurement process, you may contact the County Designated Representative listed in this RFP. In order to ensure the proposal complies with federal ADA guidelines, offerors should review the federal ADA guidelines.

#### **J. False or Misleading Statements**

Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the offeror, shall be subject to rejection.

### **X. PROTEST PROCEDURES**

#### **A. Purpose and Applicability**

The procedures described in this section have been established to ensure uniform, timely, and equitable consideration of all complaints received by the County Planning and Development Department concerning its procurement activities.

The following protest procedures shall be employed for procurements conducted by the County Planning and Development Department. Such protests shall be applicable only to procurements wherein the County Planning and Development Department requests bids, proposals, or offers for goods or services financed in whole or in part by public funds.

#### **B. Definitions**

The following definitions apply to terms used in this section:

1. **Days:** Unless otherwise specified, refers to County working days.
2. **Director** means the County Planning and Development Department Director.
3. **File or Submit:** Refers to the date of receipt by County.

4. **Interested Party:** All bidders or offerors involved in a County Planning and Development Department procurement. This may also include a subcontractor or supplier who shows substantial economic interest in a provision of the RFP, or in the interpretation of such provision.
5. **Bid or Proposal:** Refers to and includes: i) the terms “offer” and “proposal” as employed in this document; ii) sealed bids; iii) competitive negotiation, and; iv) non-competitive negotiation.

### **C. Basis for Protest**

If in the course of a procurement action an interested party has reason to believe that free and open competition does not exist; or, the County solicitation documents contain restrictive specifications, such party may file a protest in accordance with the procedures described herein.

In addition to the above, protests may be filed based upon the following factual or alleged circumstances:

1. Violation of federal, state or local law or regulation;
2. Sole source procurements;
3. Failure to adhere to evaluation criteria set forth in solicitation documents, or use of additional criteria not so published;
4. Changes to evaluation criteria made during the evaluation process;
5. Local preferences;
6. Solicitation advertising violating applicable laws or regulations; and/or
7. Provision of inadequate time to prepare a proposal.

Protests of the County Planning and Development Department procurements filed by interested parties shall be considered in two general categories: (i) those filed prior to contract award; and, (ii) protests occurring after contract award has been made.

### **D. Pre-Award Protests**

The following procedures shall be followed for all protests filed prior to award of the agreement:

1. Protests must be filed no later than five (5) days prior to the date established in the solicitation for receipt of bids or proposals (Submittal Deadline / Date). Protest

information requests and follow-up arguments that are submitted after the protest submission deadline, will not be considered to be part of the protest.

2. Protests must be submitted in writing to the attention of the County Designated Representative. The written protests shall include:
  - (a) The name, address, and telephone number of the protestor;
  - (b) The solicitation number, if any, and project description;
  - (c) A statement of the grounds for the protest, accompanied by all supporting documentation. All grounds must be fully supported with documentation;
  - (d) The resolution sought from the County by the protestor.
3. The County Designated Representative shall receive the protest and issue written notification to the protestor within (5) five days that the matter is undergoing review. Notice of the protest shall be given in writing to all known recipients of solicitation documents.
4. Procurement activity shall be suspended pending resolution of a protest unless one or more of the following conditions exists:
  - (a) The goods or services being procured are urgently required;
  - (b) Delivery or performance will be unduly delayed by failure to make an award promptly;
  - (c) Failure to make prompt award will result in termination of a critical County function or activity or otherwise cause undue harm to County; or,
  - (d) The Director prepares a written finding that such protest is clearly frivolous in nature, and therefore does not warrant a disruption of the procurement process.

The Director is responsible for making a written determination that circumstances require the County to proceed with procurement during a pending protest. Unless such determination is made, the procurement shall be suspended pending resolution of the protest. All parties known to have received solicitation documents shall be notified in writing of such suspension by the County Designated Representative.

5. The County's Designated Representative, in consultation with the Assistant Director of the Administration Division, shall examine and evaluate all protests received within the specified period and, within seven (7) calendar days, forward a recommendation concerning its disposition to the Director.

No additional material shall be accepted for consideration during the protest review unless specifically requested in writing by the County.

6. The Director may attempt to resolve the protest with the affected party. If after receipt of the recommendation, the Director elects not to attempt such resolution, or if resolution is attempted but not achieved, the protesting parties may appeal to the Purchasing Agent after thirty (30) calendar days and within thirty-five (35) calendar days after receipt of the protest submittal. Failure to appeal to the Purchasing Agent shall be a waiver of any other rights under these Protest Procedures.
7. The Purchasing Agent shall formally consider the protests within sixty (60) calendar days after the date on which the matter was appealed. The Purchasing Agent may elect to appoint a sub-committee to review the protest and make a recommendation to the Purchasing Agent. Protesting parties shall be notified in writing of the date on which their matters shall be considered by the Purchasing Agent. Such parties shall be afforded an opportunity to present their case to the Purchasing Agent.
8. The Purchasing Agent shall then make a formal decision on such protests. The decision of the Purchasing Agent, along with a formal record of the protest, shall become a matter of public record, and shall be considered final. The County Designated Representative shall notify protesting parties in writing of any protest decision made by the Purchasing Agent.

Except under conditions described in item 4 above, such decision by the Purchasing Agent shall be made prior to award of any contract related to the subject procurement.

9. Should the Purchasing Agent deny the protest, the County may proceed with the procurement process. If the decision of the Purchasing Agent is to uphold the protest, then the County shall proceed with the recommendation of the Purchasing Agent or cancel the solicitation.
10. No court shall maintain subject matter jurisdiction prior to completion of the administrative process described herein.

#### **E. Post-Award Protests**

Protests received after award of contract shall be considered only if received within five (5) days following the date on which the Director's award recommendation is made. Post-award protests received after that time shall not be considered. Protest information requests and follow-up arguments that are submitted after the protest submission deadline, will not be considered to be part of the protest.

Post-award protests shall be processed in the same fashion as that employed for pre-award protests. However, the award shall remain valid and procurement activities shall continue unless

the Director determines in writing that suspension of such award is necessary pending protest resolution. In that event, the awardee shall be so notified in writing and, if allowed pursuant to agreement terms, the County may suspend performance or terminate the agreement.

## ATTACHMENT A

### SAMPLE AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and {ENTER BUSINESS} with an address at {ENTER ADDRESS} (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

**WHEREAS**, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

#### DESIGNATED REPRESENTATIVE

{ENTER REPRESENTATIVE'S NAME} at phone number {ENTER PHONE NUMBER} is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. {ENTER CONTRACTOR REPRESENTATIVE} at phone number {ENTER PHONE NUMBER} is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

#### NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: {ENTER NAME, BUSINESS, ADDRESS, STATE, ZIP, FAX NUMBER}

To CONTRACTOR: {ENTER NAME, BUSINESS, ADDRESS, STATE, ZIP, FAX NUMBER}

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

#### SCOPE OF SERVICES

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

### **TERM**

CONTRACTOR shall commence performance on {ENTER DATE} and end performance upon completion, but no later than {ENTER DATE} unless otherwise directed by COUNTY or unless earlier terminated.

### **COMPENSATION OF CONTRACTOR**

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

### **INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

### **STANDARD OF PERFORMANCE**

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation.

Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

#### **DEBARMENT AND SUSPENSION**

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

#### **TAXES**

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

#### **CONFLICT OF INTEREST**

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

#### **OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports,



photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

#### **NO PUBLICITY OR ENDORSEMENT**

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

#### **COUNTY PROPERTY AND INFORMATION**

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

#### **RECORDS, AUDIT, AND REVIEW**

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten

thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

#### **INDEMNIFICATION AND INSURANCE**

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

#### **NONDISCRIMINATION**

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

#### **NONEXCLUSIVE AGREEMENT**

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

#### **NON-ASSIGNMENT**

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

#### **TERMINATION**

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.

1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
  2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
  3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of

COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

### **SECTION HEADINGS**

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

### **SEVERABILITY**

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

### **REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

### **TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and each covenant and term is a condition herein.

### **NO WAIVER OF DEFAULT**

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

### **ENTIRE AGREEMENT AND AMENDMENT**

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

### **SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

### **COMPLIANCE WITH LAW**

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

### **CALIFORNIA LAW AND JURISDICTION**

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

### **EXECUTION OF COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

### **AUTHORITY**

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

### **SURVIVAL**

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

### **PRECEDENCE**

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

### **SUBCONTRACTORS**

CONTRACTOR is authorized to subcontract with subcontractors identified in Contractor's Proposal. CONTRACTOR shall be fully responsible for all services performed by its subcontractor. CONTRACTOR shall secure from its subcontractor all rights for COUNTY in this Agreement, including audit rights.

### **HANDLING OF PROPRIETARY INFORMATION**

CONTRACTOR understands and agrees that certain materials which may be provided may be classified and conspicuously labeled as proprietary confidential information. That material is to be subject to the following special provisions:

- A. All reasonable steps will be taken to prevent disclosure of the material to any person except those personnel of CONTRACTOR working on the project who have a need to use the material.
- B. Upon conclusion of CONTRACTOR'S work, CONTRACTOR shall return all copies of the material direct to party providing such material. CONTRACTOR shall contact COUNTY to obtain the name of the specific party authorized to receive the material.

### **IMMATERIAL CHANGES**

CONTRACTOR and COUNTY agree that immaterial changes to the work program (mutually agreeable work program changes which will not result in a change to the total contract amount) may be authorized by Planning and Development Director, or designee in writing, and will not constitute an amendment to the Agreement.

### **NEWS RELEASES/INTERVIEWS**

CONTRACTOR agrees for itself, its agents, employees and subcontractors, it will not communicate with representatives of the communications media concerning the subject matter of this Agreement without prior written approval of the COUNTY Project Coordinator. CONTRACTOR further agrees that all media requests for communication will be referred to COUNTY'S responsible personnel.

## EXHIBIT A

{ENTER NAME} shall be the individual(s) personally responsible for providing all services hereunder. CONTRACTOR may not substitute other persons without the prior written approval of COUNTY's designated representative.

**Suspension for Convenience.** COUNTY's Designated Representative may, without cause, order CONTRACTOR in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part for up to {ENTER NUMBER} days. COUNTY shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

## EXHIBIT B

### PAYMENT ARRANGEMENTS

#### Periodic Compensation (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$ {ENTER FIGURE}.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **Attachment B1** (Schedule of Fees). Invoices submitted for payment that are based upon **Attachment B1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
- C. {ENTER PERIOD (i.e., monthly, quarterly, annually)}, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of **Attachment B1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.



## EXHIBIT C

### Indemnification and Insurance Requirements (For Professional Contracts)

#### INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR'S indemnification obligation applies to COUNTY'S active as well as passive negligence but does not apply to COUNTY'S sole negligence or willful misconduct.

#### NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement 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 and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR 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.

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 CONTRACTOR provides written verification that it has no employees)**
4. **Professional Liability:** (Errors and Omissions) Insurance appropriate to the CONTRACTOR'S profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR 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 the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

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

1. **Additional Insured** – 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 CONTRACTOR 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 CONTRACTOR'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).
2. **Primary Coverage** – For any claims related to this contract, the CONTRACTOR'S insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect 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.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the

CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best’s Insurance Guide rating of “A- VII”.
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, 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 CONTRACTOR’S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
  - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
  - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
  - iii. 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 CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

**11. Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.