

PROFESSIONAL CONSULTING SERVICES AGREEMENT BETWEEN

COUNTY OF SANTA BARBARA AND JOHN S. BAKER

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 John S. Baker, (hereafter "CONTRACTOR") wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

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

1. **DESIGNATED REPRESENTATIVE.** Michael F. Brown is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. John S. Baker is the authorized representative for CONTRACTOR. Changes in Designated Representatives shall be made only after advance written notice to the other party.
2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: Mr. Michael F. Brown
 County Executive Office, Room 406
 County of Santa Barbara
 Santa Barbara, CA 93101

To CONTRACTOR: John S. Baker
 4407 Sweetbriar Street
 Ventura, CA 93003

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. Mail.

3. **SCOPE OF SERVICES.** CONTRACTOR agrees to provide services to COUNTY in accordance with Exhibit A attached hereto and incorporated by reference herein.
4. **TERM.** CONTRACTOR shall commence performance on July 15, 2006. Contractor shall provide services for a period of one month. This agreement shall be renewed automatically for succeeding terms of one month unless either party gives 30 days notice of termination in writing to the other or as set forth in Section 17 below.
5. **COMPENSATION OF CONTRACTOR.** CONTRACTOR shall be paid for professional services under this Agreement in accordance with the terms of Exhibit B attached hereto and incorporated herein by reference. Payment shall be made upon biweekly submission of a

timesheet, which shall be subject to deductions and include withholding of State, and Federal taxes as required by law. The maximum reimbursement under this Agreement shall not be exceeded during the term of this Agreement without a written notice from COUNTY.

Evaluation of CONTRACTOR's services will be conducted by COUNTY on a regular on-going basis and CONTRACTOR agrees to participate fully in the evaluation procedure.

6. **CONTRACTOR ON PAYROLL.** Unless specifically stipulated by COUNTY in attached Exhibit B, CONTRACTOR understands and agrees that CONTRACTOR is not, and will not, be eligible for membership in or any benefits from any COUNTY group health plan or hospital, surgical or medical insurance or membership in any COUNTY retirement program;, except as outline in Exhibit B; or any other job benefits accruable to an employee in the classified services of the COUNTY except for worker's compensation and unemployment insurance. CONTRACTOR is responsible for licensure fees, subscriptions to journals and other professional expenses not specifically detailed in this Agreement.

CONTRACTOR may be permitted to use COUNTY vehicles as part of CONTRACTOR's assignment and shall maintain a valid California Driver's License.

CONTRACTOR understands and agrees that CONTRACTOR's term is governed solely by this Agreement; that no right of tenure is created hereby; and that he/she does not hold a position in any department or office of the COUNTY and that CONTRACTOR's services to the COUNTY under this Agreement is authorized pursuant to Government Code Section 31000.

7. **STANDARD OF PERFORMANCE.** CONTRACTOR represents that CONTRACTOR has the skills, expertise and licenses/permits necessary to perform the services required under this Agreement and agrees to immediately notify Designated Representative of any action against licenses/permits. 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 professional 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.
8. **TAXES.** The COUNTY shall pay CONTRACTOR for professional services pursuant to this Agreement, payable upon biweekly submission of a time card, which shall be subject to deductions and include withholding of State and Federal taxes as required by law.
9. **CONFLICT OF INTEREST.** CONTRACTOR covenants that CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, 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.

10. **RESPONSIBILITIES OF COUNTY.** COUNTY shall provide all information reasonably necessary by CONTRACTOR in performing the services provided herein.

11. **OWNERSHIP OF DOCUMENTS.** 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, and any material necessary for the practical use of the data and/or documents 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 materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

12. **RECORDS, AUDIT, AND REVIEW.** There is no Section 12.

13. **INDEMNIFICATION AND INSURANCE.** As a Contractor on Payroll, COUNTY will defend and indemnify CONTRACTOR against any claim, lawsuit, or judgment arising out of CONTRACTOR's duties under this Agreement with COUNTY pursuant to Government Code Section 825.

CONTRACTOR agrees to notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

CONTRACTOR shall bear the cost of his or her own defense and liability for any act or omission arising from professional duties outside the scope of this Agreement. Nothing contained herein shall be deemed to increase COUNTY'S liability beyond limitations set forth by law.

Indemnification pertaining to CONTRACTOR's Finances

CONTRACTOR shall indemnify and save harmless the County, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions thereof; including, but not limited to any financial consequences to CONTRACTOR resulting in the denial or reduction of any benefit(s) CONTRACTOR may be receiving or entitled to receive from any other source.

CONTRACTOR warrants that he has sought independent legal and financial counsel to address any financial effects of any nature upon CONTRACTOR that may arise out of this agreement or may be occasioned by the performance or attempted performance of the provisions thereof.

CONTRACTOR further acknowledges that he is solely responsible for determining any possible effects upon any financial benefits CONTRACTOR may be receiving or entitled to receive from any source.

14. **NONDISCRIMINATION.** COUNTY hereby notifies CONTRACTOR that COUNTY's Anti-Harassment Policy and COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and are incorporated herein by this reference with the same force and effect as if the anti-harassment policy and ordinance were specifically set out herein and CONTRACTOR agrees to comply with said policy and ordinance.
15. **NON-EXCLUSIVE 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.
16. **ASSIGNMENT.** CONTRACTOR shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.
17. **TERMINATION.** Either of the parties hereto shall, without cause, prior to the expiration date of this Agreement, have the right to cancel and terminate this Agreement upon thirty (30) days notice in writing to the other as set forth in Section 4 above. Upon a material breach of the terms and conditions of the Agreement by one of the parties, the non-breaching party (including Designated Representative's superiors) may terminate this Agreement upon the mailing of a written notice of termination to the breaching party. Written notification as required under this paragraph shall be given by CONTRACTOR to the COUNTY Designated Representative. Written notification by COUNTY shall be given to the CONTRACTOR. In the case of material breach (for example: gross negligent conduct, malpractice or criminal conduct, etc.) by CONTRACTOR, the Designated Representative or any of his/her superiors may immediately terminate the Agreement.
18. **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.
19. **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.
20. **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.
21. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

22. **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.
23. **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.
24. **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.
25. **COMPLIANCE WITH LAW.** CONTRACTOR shall, at CONTRACTOR's 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.
26. **CALIFORNIA LAW.** 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.
27. **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.
28. **AUTHORITY.** All 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.

29. **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.

Agreement for services of Contractor on Payroll between the **County of Santa Barbara** and **John S. Baker**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective July 15, 2006.

COUNTY OF SANTA BARBARA
MICHAEL F. BROWN
CHIEF EXECUTIVE OFFICER

Contractor

By: _____
Deputy

By: _____
John S. Baker

Date: _____

Date: _____

APPROVED AS TO FORM:
FORM:
STEPHEN SHANE STARK
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING

ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED AS TO INSURANCE FORM
RAY AROMATORIO, ARM, AIC

By: _____
RISK PROGRAM ADMINISTRATOR

EXHIBIT A

STATEMENT OF WORK

CONTRACTOR shall perform the following services for County:

Employee shall perform the duties of the Planning and Development Director; and such other duties incidental thereto and as prescribed by law, in a professional manner. He shall have and exercise all authority and powers necessary to manage the functions and operation of the Planning and Development Department. He shall report to the County Executive Officer (CEO) or designee.

In regard to the functions and operations of the Planning and Development Department, Employee is responsible for the control and oversight of the department. He shall manage the budget of the department within the parameters established by the CEO. In addition to the above duties, Employee shall fulfill the following objectives and expectations during the term of his appointment:

- Management/Supervisory development – enhancement of the capabilities of staff for promotional opportunities in the department (to include career development plans, management and supervisory training and employee mentoring)
- Development review process assessment – assessment of ways of improving the process for customer ease while maintaining or improving the quality of the end product
- Customer service assessment – develop means of determining the level of customer satisfaction with the development review process
- Initiate stronger project accountability and coordination among participating departments in the development review process
- Performance measure assessment to ensure applicability to program design and management
- Assessment of organizational structure and staffing distribution for maximum efficiency in service delivery.

EXHIBIT B
Contractors On Payroll not Subject to Retirement
COMPENSATION

COMPENSATION. The COUNTY shall pay CONTRACTOR for professional services pursuant to this Agreement, payable upon biweekly submission of a time card, which shall be subject to deductions and include withholding of State and Federal taxes as required by law.

I. HOURLY RATE (CON)

The COUNTY shall pay CONTRACTOR for professional services coded as "CON" at the rate of \$84.14 per hour for Fiscal Year 2006-2007; and \$84.14 per hour for Fiscal Year 2007-2008. The DESIGNATED REPRESENTATIVE may adjust this rate by an amount up to the same percentage change granted to subordinate managers in the Planning and Development Department during the course of this Agreement.

II. BENEFITS

In accordance with this agreement, CONTRACTOR shall receive the following benefits limited to:

- A. Employer's share of FICA, also known as Social Security.
- B. Employer's share of Federal Medicare Health Insurance.
- C. County Worker's Compensation Insurance.
- D. State Unemployment Insurance.
- E. Travel expense reimbursement for mileage claims with prior written authorization.
- F. Commencing with employment, the CONTRACTOR, will receive leave balances in the following amounts; 80 hours vacation time, and 80 hours sick time. The Contractor will accrue vacation time at the rate of twelve days per year. Sick leave accruals will be at a rate equal to twelve days per year. The CONTRACTOR will receive a balance of 108 hours of Administrative Leave time commencing with his employment. The CONTRACTOR will be paid for County recognized holidays.
- G. CONTRACTOR understands and agrees that s/he is not, and will not be, eligible for membership in or any benefits from any COUNTY group plan or hospital, surgical, or medical insurance, or membership in any COUNTY retirement program, or any job benefits accruable to an employee in the classified services of the COUNTY, except for worker's compensation and unemployment insurance. Commencing with employment, the CONTRACTOR will sign the appropriate forms, waiving health and retirement benefits.
- H. CONTRACTOR is responsible for professional license fees, subscriptions to journals, and other professional expenses not specifically detailed in this Agreement.

III. NON APPROPRIATION

In the event that no funds or insufficient funds are appropriated and budgeted or otherwise not available for payments in the fiscal year covered by the term of the Agreement, then COUNTY will immediately contract CONTRACTOR of such occurrence and the Agreement may be terminated by COUNTY. 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.

