

COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter “County”) and:
Development Dimensions International, Inc. (DDI) _____, (hereinafter “CONTRACTOR”).

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

Provide:

A license to access Interview Guide Creation Software (TS: Access) and Job Analysis Software (Success Profile Navigator, SPN).

2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of:\$71,000.00

3.0 TERM OF AGREEMENT:

3.01 The term of this Agreement is from June 1, 2021 to May 31, 2024, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

Exhibit B Other: Additional Provisions

5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION:

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. “Good cause” includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

7.03 The County’s payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County’s purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8.0 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys’ fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR’s performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. “CONTRACTOR’s performance” includes CONTRACTOR’s action or inaction and the action or inaction of CONTRACTOR’s officers, employees, agents and subcontractors.

9.0 INSURANCE REQUIREMENTS:

9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a “Certificate of Insurance” certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County’s Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a “Notice to Proceed” with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 **Qualifying Insurers:** All coverage’s, except surety, shall be issued by companies which hold a current policy holder’s alphabetic and financial size category rating of not less than A- VII, according to

the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- 9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Requestor must check the appropriate Automobile Insurance Threshold:

Requestor must check the appropriate box.

Agreement Under \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Agreement Over \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers' Compensation Insurance: if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance: if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or

errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a “claims-made” basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage (“tail coverage”) with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR’S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR’S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County’s contract administrator and County’s Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10.0 **RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION:

11.01 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

14.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR’S contract administrators at the addresses listed below:

FOR COUNTY: Irma Ramirez-Bough Director of Human Resources	FOR CONTRACTOR: Patsy P. Tsao Sr. VP & CFO
Name and Title 168 W. Alisal Street, 3rd Floor Salinas, CA 93901	Name and Title 1225 Washington Pike Bridgeville, PA 15017
Address (831) 755-5043	Address (412) 257-0600
Phone:	Phone:

15.0 MISCELLANEOUS PROVISIONS.

- 15.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 15.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 **Contractor:** The term “CONTRACTOR” as used in this Agreement includes CONTRACTOR’s officers, agents, and employees acting on CONTRACTOR’s behalf in the performance of this Agreement.
- 15.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 15.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 **Compliance with Applicable Law:** The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

EXHIBIT A

To Agreement by and between

**the COUNTY OF MONTEREY, hereinafter referred to as “COUNTY”
and
Development Dimensions International, Inc. (DDI), hereinafter referred to as
“CONTRACTOR”**

SCOPE OF SERVICES/PAYMENT PROVISIONS

A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for incidental to the performance of work, as set forth below:

CONTRACTOR shall provide to County:

1. Set-up and consulting of TS: Access[®] Software

- Set-up Consulting includes technical consulting and system set-up on a County specific realm.
- TS: Access[®] users (Analysts; Interview Administrators; System Administrators, Editors, Interviewers) are provided logon information from the County Administrator (CA), giving them secure access to the DDI TS: Access[®] site where they may complete the tasks required in the process.
- DDI will import up to two (2) electronic files per TS: Access[®] purchase at initial set-up. Electronic data file consists of Work Content Experts and usernames, passwords and additional user information. (County also has the option of inputting usernames, passwords and additional information directly through County’s specific TS: Access[®] realm).
- Set-up Consulting includes one day of TS: Access[®] Administrator Training for up to six (6) participants and up to four (4) hours of post-training support.
- The cost of Implementation Planning, Additional Administrator Training, and the Success Profiles: Foundations Workshop are NOT included.

2. Set-up of Success Profiles Navigator SM Software

- Set-up Consulting includes up to 8 hours of technical consulting and system set-up on a County specific realm.
- SPN users (Job Analysts; System Administrators, Editors) are provided logon information from the County Administrator (CA), giving them secure access to the DDI SPN site where they may complete the tasks required in the Success Profiling process.
- DDI will import up to two (2) electronic files per SPN purchase at initial set-up. Electronic data file consists of Work Content Experts and SPN usernames, passwords and additional user information. (County also has the option of inputting usernames, passwords and additional information directly through County’s specific SPN realm).
- License includes access to SPN for all trained users, and 1 “participant’s seat” per year

(during license period) in the public SPN training Workshop.

- License includes technical support, access to DDI’s full success profiles library (includes High Performance, Executive, Sales, and Health Care competencies), and the capacity to create up to two custom competency libraries in the Editor function. Additional custom libraries are \$500 per library.

B. PAYMENT PROVISIONS

B.1 COMPENSATION/PAYMENTS

COUNTY shall pay an amount not to exceed \$71,000.00 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services and the deliverables listed in the table below. CONTRACTOR’s compensation for services rendered shall be based on the rates stated on the table below.

Products/Services/Fees	Price per Unit	Quantity	Total for Line Item
1. Virtual Implementation Planning: half-day planning session (4 hours)	\$2,500 per half day	1	\$2,500
2. Public TS Trainer Certification Workshop	\$3,300 per participant	3	\$9,900
3. TS: Access® Software Set-up Consulting <ul style="list-style-type: none"> • All TS: Access implementations must include set-up and consulting. Includes implementation planning, training for up to six (6) administrators (one (1) day on-site plus four (4) additional hours of phone consulting support), and system set-up. 	\$10,000	1	\$10,000
4. TS: Access Guides Only Package Annual License for up to three (3) TS: Access® Administrators	\$7,000/Year/up to 3 Administrators	1	\$7,000
5. Set-up of Success Profiles NavigatorSM Software (includes software training and set-up) <ul style="list-style-type: none"> • Set-up Consulting includes up to four (4) hours of training/consulting and system set-up on a client specific realm 	\$5,000	1	\$5,000
6. 1 -year Success Profiles NavigatorSM software license <ul style="list-style-type: none"> • License includes access for up to six (6) SPN users • License includes technical support, access to DDI’s full Success Profiles library (includes High Performance, Executive, Sales, and Health Care competencies), and the capacity to create up to two custom competency libraries in the Editor function 	\$5,500/Year	1	\$5,500

Products/Services/Fees	Price per Unit	Quantity	Total for Line Item
7. Success Profiles Card Sort Public Workshop (per person)	\$2,900 per person	4	\$11,600
8. Taxes	Actual Cost	As incurred	Actual Cost
9. Freight	Actual Cost	As incurred	Actual Cost
10. Reimbursable Expenses	Actual Cost	As incurred	Actual Cost
11. Travel Time	Actual Cost	As incurred	Actual Cost

There shall be no travel reimbursement allowed during this Agreement.

CONTRACTOR warrants that the cost charged for services under the terms of this contract are not in excess of those charged any other client for the same services performed by the same individuals.

B.2 BILLING PROCEDURES

CONTRACTOR will invoice the COUNTY annually and payments will be made based upon satisfactory acceptance of CONTRACTOR’s annual invoices.

CONTRACTOR shall submit the first annual invoice to County within seven (7) days of the County’s execution of this Agreement. Thereafter, CONTRACTOR shall submit an annual invoice to County no later than the 10th day of the month following the anniversary date of this Agreement. Invoices shall be emailed to Jose L. Tapia, Finance Manager at TapiaJL@co.monterey.ca.us. County shall certify the invoices and promptly submit them to the County Auditor-Controller for payment. The Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

COUNTY may terminate this Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR breaches any term or condition of this Agreement.

COUNTY shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

EXHIBIT B

To Agreement by and between

the COUNTY OF MONTEREY, hereinafter referred to as “COUNTY”
and
Development Dimensions International, Inc. (DDI), hereinafter referred to as
“CONTRACTOR”

Additional Provisions

- A. **Taxes.** Pricing of Products and Services is not inclusive of taxes. Client shall pay all sales and use taxes, and any other similar taxes, duties and charges of any kind, including, but not limited to, all applicable federal, state, GST, VAT and Provincial taxes, applicable duties, electronic delivery taxes, excise taxes, levies, and import fees (collectively, “Taxes”) imposed in connection with DDI’s provision of the Services, including in connection with its sale and shipment or importation of any Products delivered to Client under this Agreement. Client shall provide any applicable tax exemption claims in writing to DDI in advance of placing an order. DDI shall be solely responsible for all Taxes associated with or assessed on its income, revenue, gross receipts, personnel, or real or personal property or other assets. All fees set forth in an SOW are exclusive of Taxes. Without limiting the foregoing and unless otherwise required by law, neither Party shall be responsible for withholding, paying, or filing tax returns with respect to any applicable income, payroll, social security, Medicare, unemployment, or other applicable taxes and assessments on the other Party’s behalf.
- B. **Freight.** If any tangible Products are to be delivered, unless otherwise requested by Client, DDI will ship the Products ground service, pre-paid, and add associated freight charges to the invoice. If Client requests rush or overnight shipment, or if DDI must use rush shipments to ensure project activities are performed timely or to meet project scheduling needs, DDI will pre-pay and add express freight charges to Client’s invoice. If the Products are equipment to be returned to DDI, DDI will provide Client a pre-paid shipping carton to return the Products to DDI. DDI will deliver Materials (as defined below) FOB Destination.
- C. **Cancellation/Rescheduling Terms.** In the event Client or DDI cancels or reschedules any session of Services, the cancelling or rescheduling Party will pay for all non-refundable costs incurred by the other Party. Client also agrees to pay DDI a cancellation/rescheduling fee for each session that is canceled or rescheduled by Client and the fee will be per the below chart.

Cancellation/Rescheduling	Cancellation/Rescheduling Fee
11-20 business days before scheduled session	20% of session fee
2-10 business days before scheduled session	50% of session fee
1-0 business days before scheduled session	100% of session fee

- D. **Third Party Providers.** Client acknowledges that DDI may utilize one or more subprocessor in the ordinary course and scope of its business operations for ancillary services. Client provides general authorization for use of the subprocessors on the list at the link provided:

<https://corp.ddiworld.com/thirdpartyproviders> . DDI will be responsible for the actions of such in their performance of Services provided hereunder and shall inform Client of any intended changes concerning the addition or replacement of other subprocessors.

E. **DDI Ownership**

- (i) **General.** DDI shall retain all right, title, and interest in and to all Products and Services, including Materials and Tools (as defined below). DDI provides Client a non-exclusive, non-transferable, non-sublicensable, worldwide license to use Products, Services, Materials, and Tools solely for Client's internal business purposes. Services that DDI provides require that DDI protect the anonymity of the Participants and maintain the integrity and value of the Services; and as such, Client will not have access to the line item responses provided at the Participant level. Client must purchase a license for Materials or Tools for each Participant.
- (ii) **Products and Equipment.** If DDI is to provide equipment as part of the Services, DDI will maintain ownership of said equipment.
- (iii) **Materials.** "Materials" means all copyright-protected Products provided to Client by DDI, regardless of the format. No right to modify, translate, or copy such Materials is given, unless previously provided in writing by DDI; DDI will retain copyrights on all modified, copied, and translated Materials. Electronic Materials and/or hard copy Materials are not returnable for refund.
- (iv) **Workshop Delivery.** As part of the Services, DDI employees certified as trainers ("**DDI Trainers**") or Client employees trained and certified by DDI as trainers ("**Client Trainers**") may perform workshops ("**DDI Workshops**") for Participants. Clients may also have Client employees trained as Master Trainers, and such Master Trainers may certify additional employees as Client Trainers. No other personnel are authorized to perform DDI Workshops. Client Trainers and Client Master Trainers may only perform DDI Workshops as previously agreed with DDI. Without written consent of DDI and entry into a separate agreement with DDI, no third parties may deliver DDI Workshops within Client's organization, even if third parties have been certified to deliver DDI Workshops within other organizations. DDI hereby agrees that Client can add two screenshots of the final deliverable guide as an example of the output to utilize in its training.
- (v) **Technology Services.** Web-based or Cloud-based applications, virtual reality programs, equipment, assessments, testing, software systems and related tools which may be used by DDI to perform and provide Services ("**Tools**") will reside on computer equipment within the United States, with security provisions commensurate with this Agreement. These Tools are the property of DDI or have been licensed by DDI, and DDI retains all rights to such. Client hereby confirms that their systems are compatible with the specifications at <https://www.ddiworld.com/techdocs>. DDI reserves between 3:00 AM and 8:00 AM EST each Saturday, to perform routine and emergency maintenance. As part of its routine business, DDI reserves the right to sunset, at DDI's discretion, any of its Tools with 120-day written notice to Client.

- F. **Controller and Processor.** The Parties agree that Client is the data controller ("**Controller**") under this Agreement and determines the purpose and means of the processing of any Client Personal Information (as defined below). Client hereby requests DDI to be its data processor

(“**Processor**”) and requires DDI to provide Participants with their individual Results. DDI will provide Client’s internal participants with their individual Results. In addition, any individual entered into DDI systems by Client or by DDI as a "client administrator" is authorized to access outputs, Products, and Services, unless otherwise agreed upon in writing. Client administrator may share Results internally to others per Client’s internal policies. Client is responsible for determining, communicating, and managing access levels and parameters. DDI shall reasonably and at Client’s cost, cooperate with Client to enable Client to address and resolve any complaints, requests, or inquiries from Participants, including but not limited to requests to correct, delete, or block personal data. If a Participant requests this data, DDI will inform Client of any request and will cooperate reasonably with Client regarding the Participant’s request. Questions regarding data protection can be directed to DataProtectionOfficer@ddiworld.com. For the provision of Services associated with the Agreement, Controller hereby instructs Processor to transfer Client Personal Information (as defined below) to servers in the United States.

G. **Personal Information.** “**Client Personal Information**” means any information about a person obtained by DDI on behalf of Client that could be used to identify that person, including a name, email address, or voice sample. In performing the Services, DDI will process Client Personal Information that it receives, possesses, or otherwise obtains in relation to this Agreement in accordance with applicable data security laws, including but not limited to European Union Regulation 2016/679, including regulations with regard to transfers of Client Personal Information to countries outside the European Economic Area or Switzerland and onward transfers, only on documented instructions from Client and for the purposes of performing the Services hereunder.

(i) Security Incident. A “**Security Incident**” shall mean any unauthorized access to or unauthorized acquisition or disclosure of Client Personal Information, any loss or theft of hardware or media in which Client Personal Information is stored, or any acquisition or disclosure, without valid authorization, of Client Personal Information. If DDI becomes aware of any access to, loss, or unauthorized disclosure of any Client Personal Information, DDI shall promptly notify Client per applicable regulations to enable Client to expeditiously implement its own response program. Such notice shall summarize in reasonable detail, to the extent known, the nature of the Security Incident and the actions DDI has taken or intends to take to mitigate the effect of such Security Incident; take all commercially necessary and appropriate actions to investigate and mitigate the Security Incident, including without limitation, using good faith efforts to remedy any deficiencies in its security measures; and keep Client reasonably informed as to the progress of all investigation, mitigation and remediation efforts. Where any such Security Incident has likely resulted in an unauthorized disclosure of Client Personal Information that triggers a requirement under applicable law that Client notify a regulatory or enforcement authority, an individual, or other entity, DDI shall provide Client with reasonably sufficient information to enable Client to provide such notices.

H. **LIMITATION OF LIABILITY. WITH THE EXCEPTION OF DAMAGES ARISING AS THE RESULT OF THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF A PARTY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION OR OTHER PECUNIARY LOSS. THE AGGREGATE LIABILITY OF EITHER PARTY UNDER THIS AGREEMENT IS LIMITED TO THE GREATER OF FEES PAID BY CLIENT TO DDI UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE EVENT THAT GAVE RISE TO SUCH LIABILITY OR \$250,000.**