

**AMENDMENT #3 TO PROFESSIONAL SERVICES AGREEMENT  
COUNTY OF MONTEREY & SPECIALTY CONSTRUCTION INC.**

**THIS AMENDMENT** is made to the AGREEMENT for work at public safety communication towers within Monterey County by and between Specialty Construction Inc., hereinafter "CONTRACTOR", and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County".

**WHEREAS**, on November 5, 2009, County and CONTRACTOR entered into an agreement whereby CONTRACTOR would provide County with certified personnel qualified to perform work at public safety communication towers within Monterey County for a contract term of November 1, 2009 through June 30, 2012; and

**WHEREAS**, on February 13, 2012, in Amendment No. 1, County and CONTRACTOR agreed to amend the Agreement to extend the term through June 30, 2014; and

**WHEREAS**, on May 20, 2014, in Amendment No. 2, County and CONTRACTOR agreed to amend the Agreement to extend the term through June 30, 2017; and

**WHEREAS**, the County and CONTRACTOR wish to amend the AGREEMENT to increase the total amount of the AGREEMENT.

**NOW THEREFORE**, the County and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

1. Section 2., "PAYMENTS BY THE COUNTY" shall be amended by removing, "*The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$66,666.72.*" and replacing it with "*The total amount payable by County to CONTRACTOR under this AGREEMENT shall not exceed \$99,999.00*"
2. EXHIBIT A-3 – Section II.3, "Total Compensation; Additional Work" shall be amended to read: "It is mutually understood and agreed upon by both Contractor and County that Contractor's total compensation under this Agreement shall not exceed the following:

FY	Expenditures / (Total Expenditures)		Balance Remaining
2009-2010	\$5,371		
2010-2011	\$8,400	(\$13,771)	
2011-2012	\$0	(\$13,771)	
2012-2013	\$0	(\$13,771)	
2013-2014	\$0	(\$13,771)	
2014-2015	\$10,000	(\$23,771)	
2015-2016	\$27,074	(\$50,845)	
2016-2017	\$11,972.75	(\$62,817.75)	
2016-2017			\$37,181.25

3. The following shall be added to EXHIBIT A-3, Article II. Payment Provisions:

*“5. Contractor and all subcontractors performing work under this contract shall pay wages to their workers employed on such work as not less than the general prevailing rate of per diem wages for such work, as required by Labor Code Sec. 1771. CONTRACTOR shall comply with provisions of the Labor Code (sections 1720, et seq.) governing public works, including payment of prevailing wages, payroll records and employment of apprentices. Copies of the determination of the general prevailing rate of per diem wages are available at:*

*<http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. Failure to pay such prevailing wages shall subject the employer to the penalties set forth in Labor Code Sec. 1775.”*

4. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT No. 3 and shall continue in full force and effect as set forth in the AGREEMENT.

4.A copy of this AMENDMENT No. 3 shall be attached to the original AGREEMENT executed by the County on November 5, 2009, along with Amendment Nos 1 and 2.

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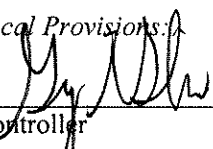
IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

MONTEREY COUNTY

  
Contracts/Purchasing Officer  
Barbara Lewelling, MBA  
Deputy Purchasing Agent  
County of Monterey

Dated: 9-1-16

Approved as to Fiscal Provisions:

  
Deputy Auditor/Controller

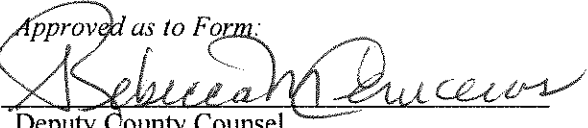
Dated: 8-30-16

Approved as to Liability Provisions:

Risk Management

Dated:

Approved as to Form:

  
Deputy County Counsel

Dated: August 30, 2016

CONTRACTOR

By: 

Signature of Chair, President, or  
Vice-President

Thomas J. McBryde, Vice President / Telecom  
Printed Name and Title

Dated: August 19, 2016

By: 

(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)\*

Rudolph C. Bachmann, President / Secretary.  
Printed Name and Title

Dated: August 19, 2016

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

EXHIBIT A-3: SCOPE OF SERVICES  
County of Monterey - Department of Information  
Technology to Provide Certified Personnel for Work At  
Public Safety Communications Towers within Monterey County

This Scope of Services is between the County of Monterey ("*County*") and Specialty Construction Inc. ("*Contractor*") and sets forth the expected tasks, consulting, service levels, and responsibilities of Contractor in providing qualified personnel for engaging in work at public safety communications towers located within Monterey County.

Article I. Scope of Services.

A. Installation and/or repair of equipment on public safety communications equipment:

(1) To install, replace, or repair public safety communications equipment that is mounted on communications towers within Monterey County. The term "*equipment*" includes, but is not limited to, antennas, mounting hardware, coax, waveguide, fittings, replace of outdoor units (the "ODU's"), microwave dishes, and splitters.

(2) To install any and all equipment in accordance with engineering specifications described by Contractor.

(3) To provide own transportation to the site location designated for work. To facilitate access, County staff will escort Contractor to and through any and all locations, including sites secured or gated.

B. Qualifications of Contractor; Safety Compliance.

(1) Tower Climbing Certification. Contractor shall implement all procedures and take all measures necessary to ensure that only those Contractor's employees or agents who have been properly trained as qualified climbers in accordance with commonly recognized industry practices and applicable federal and state laws and regulations shall climb tower structures. County shall have no responsibility to monitor elevated work by Contractor's employees or agents or to verify training of the same. "*Elevated work*" means any work over six feet above ground level, including, but not limited to, any means of elevating personnel above the ground, any tower climbing, tower antenna or equipment installation, or maintenance activities on towers. The performance of elevated work by any of Contractor's employees or agents who have not been properly trained as qualified climbers shall constitute a material breach of this Agreement. Upon such material breach, County shall have the right to immediately terminate this Agreement.

(2) Radio Frequency Exposure Safety. Contractor and its employees or agents represent and warrant that they are fully aware of and knowledgeable about the inherent dangers of working on or near tower, rooftop, or other wireless communication sites that are "live", i.e., that are actively receiving and/or transmitting radio signals that may create radio frequency radiation ("RFR") (hereinafter "*live sites*"). Contractor shall implement all procedures and take all measures necessary to ensure that only those Contractor's employees or agents who have satisfactorily completed RFR safety training in accordance with FCC OET 65, the most current applicable updates in regulations and guidelines set forth by the Occupational Safety and Health Administration ("OSHA") of the United States Department of Labor, and commonly recognized industry practices, may enter a Live Site or perform Work on a Live Site. The performance of work on a Live Site by any of Contractor's employees or agents who have not satisfactorily completed RFR safety training shall constitute a material breach of this Agreement. Upon such material breach, County shall have the right to immediately terminate this Agreement.

(3) Regulatory Compliance. In performing the work referred to in Article I, Section A above, Contractor and its personnel shall adhere to any and all federal and State of California rules and regulations set forth by the Occupational Safety and Health Administration ("OSHA") of the United States Department of Labor, specifically the Code of Federal Regulations Title 29, Part 1926 entitled "Safety and Health Regulations for Construction", and California OSHA Title 8, Chapter 4, Subchapter 21 entitled "Telecommunication Safety Orders".

## **Article II. Payment Provisions.**

1. Time and Materials. Contractor shall bill on a project-by-project basis.
2. Address for Invoices. Invoices shall be mailed to David C. Dalby, Assistant Director, Department of Information Technology, 1590 Moffett Street, Salinas, California 93905.
3. Total Compensation; Additional Work. It is mutually understood and agreed upon by both Contractor and County that Contractor's total compensation under this Agreement shall not exceed the following:

FY	Expenditures / (Total Expenditures)	Balance Remaining
2009-2010	\$5,371	
2010-2011	\$8,400 (\$13,771)	
2011-2012	\$0 (\$13,771)	
2012-2013	\$0 (\$13,771)	
2013-2014	\$0 (\$13,771)	
2014-2015	\$10,000 (\$23,771)	
2015-2016	\$27,074 (\$50,845)	
2016-2017	\$11,972.75 (\$62,817.75)	
		\$37,181.25

Although limited by this "not to exceed" amount, County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement. Any additional work must be provided under an Amendment to this Agreement, or a separate Professional Services Agreement executed prior to commencement of work, which may require approval by the Board of Supervisors of the County.

4. Submittal of Invoice. For any work covered by this Agreement, Contractor shall submit an invoice at the completion of services, not later than thirty (30) days after completion of services. The invoice shall set forth the amounts claimed by Contractor for the length of the term set forth in this Agreement, with an itemized basis for the amounts claimed, and other information providing a basis for the charges. Invoices shall be submitted to County no more than once per month. 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 issuance of payment. The County Auditor-Controller shall pay the amount certified within thirty (30) days of receiving the certified invoice.

5. Contractor and all subcontractors performing work under this contract shall pay wages to their workers employed on such work as not less than the general prevailing rate of per diem wages for such work, as required by Labor Code Sec. 1771. CONTRACTOR shall comply with provisions of the Labor Code (sections 1720, et seq.) governing public works, including payment of prevailing wages, payroll

records and employment of apprentices. Copies of the determination of the general prevailing rate of per diem wages are available at: <http://www.dir.ca.gov/dlsr/DPreWageDerermination.htm>. Failure to pay such prevailing wages shall subject the employer to the penalties set forth in Labor Code Sec. 1775.

**Article III. Term.**

The term of this Agreement shall be November 1, 2009 to June 30, 2017, unless either party terminates the Agreement, at any time by providing prior written notice to the other party.

**AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE COUNTY OF MONTEREY  
AND  
SPECIALTY CONSTRUCTION, INC.**

This Amendment No. 2 to the Professional Services Agreement, hereinafter referred to as "Agreement" dated November 1, 2009, is made and entered into by and between the County of Monterey, hereinafter referred to as "COUNTY", and Specialty Construction, Inc. hereinafter referred to as "CONTRACTOR".

WHEREAS, on or about November 5, 2009, the COUNTY and CONTRACTOR entered into a Professional Services Agreement for the provision of certified personnel for work on public safety communications towers within Monterey County for the period of November 1, 2009 through June 30, 2012;

WHEREAS, on or about February 13, 2012, the COUNTY and CONTRACTOR amended the Agreement to extend the term of the Agreement for the same services on an as-needed basis; and

WHEREAS, the COUNTY and CONTRACTOR would like to amend the Agreement to extend the term for an additional three years for the provision of certified personnel for work on public safety communications towers within Monterey County on an as-needed basis;

NOW THEREFORE, the COUNTY and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

1. Section 3, "TERM OF AGREEMENT." shall be amended to read: *"The term of this Agreement is from November 1, 2009 to June 30, 2017, 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 signing last, and CONTRACTOR may not commence work before County signs this Agreement."*
2. Exhibit A, Section II.3, "Total Compensation; Additional Work" shall be amended to read: *"It is mutually understood and agreed upon by both Contractor and County that Contractor's total compensation under this Agreement shall not exceed the following:*

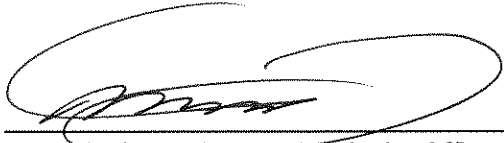
<b>Term</b>	<b>Amount</b>
November 1, 2009 - June 30, 2010	\$5,371
July 1, 2010 - June 30, 2011	\$8,400
July 1, 2011 - June 30, 2017	\$52,895.72
<b>Total Agreement Amount</b>	<b>\$66,666.72</b>

*The payments and services under this Agreement is on an "as incurred" basis."*

3. Exhibit A, Section III, "Term" shall be amended to read: *"The term of this Agreement shall be from November 1, 2009 to June 30, 2017."*
4. All other terms and conditions of the Agreement shall remain in full force and effect.

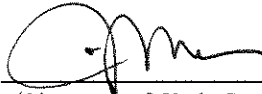
IN WITNESS WHEREOF, COUNTY and SPECIALTY CONSTRUCTION, INC. have executed this Amendment No. 2 as of the day and year written below.

**COUNTY OF MONTEREY**

By:   
Michael Derr, Contracts/Purchasing Officer


Date: 5-20-14

**SPECIALTY CONSTRUCTION, INC.**


By:   
(Signature of Chair, President, or VP)  
Thomas J McBryde, Vice President / Telecom

Date: May 12, 2014

**APPROVED AS TO LEGAL FORM:**

By:   
Deputy County Counsel

Date: \_\_\_\_\_

By:   
Title: (Signature of Sec, Asst. Sec, CFO, Treasurer)  
Rudolph C. Bachmann, President / Secretary

Date: May 12, 2014

**APPROVED AS TO FISCAL PROVISIONS:**

By:   
Auditor-Controller

Date: 5-19-14



**AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE COUNTY OF MONTEREY  
AND  
SPECIALTY CONSTRUCTION, INC.**

This Amendment No. 1 to the Professional Services Agreement, hereinafter referred to as "Agreement" dated November 1, 2009, is made and entered into by and between the County of Monterey, hereinafter referred to as "COUNTY", and Specialty Construction, Inc., hereinafter referred to as "CONTRACTOR".

Whereas, on or about November 5, 2009, the COUNTY and CONTRACTOR entered into a Professional Services Agreement for the provision of certified personnel for work on public safety communications towers within Monterey County for the period of November 1, 2009 through June 30, 2012; and

NOW THEREFORE, the COUNTY and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

1. Section 3, "TERM OF AGREEMENT." shall be amended to read: *"The term of this Agreement is from November 1, 2009 to June 30, 2014, 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 signing last, and CONTRACTOR may not commence work before County signs this Agreement."*
2. Exhibit A, Section II.3, "Total Compensation; Additional Work" shall be amended to read: *"It is mutually understood and agreed upon by both Contractor and County that Contractor's total compensation under this Agreement shall not exceed the following:*

<b>Term</b>	<b>Amount</b>
November 1, 2009 - June 30, 2010	\$5,371
July 1, 2010 - June 30, 2011	\$8,400
July 1, 2011 - June 30, 2014	\$52,895.72
<b>Total Agreement Amount</b>	<b>\$66,666.72</b>

*The payments and services under this Agreement is on an "as incurred" basis."*

3. Exhibit A, Section III, "Term" shall be amended to read: *"The term of this Agreement shall be from November 1, 2009 to June 30, 2014."*
4. All other terms and conditions of the Agreement shall remain in full force and effect.


IN WITNESS WHEREOF, COUNTY and SPECIALTY CONSTRUCTION, INC. have executed this Amendment No. 1 as of the day and year written below.

**COUNTY OF MONTEREY**

By:   
Michael Derr, Contracts/Purchasing Officer

Date: 2-13-12

**SPECIALTY CONSTRUCTION, INC.**


By:   
(Signature of Chair, President, or VP)  
Thomas J. McBryde, Vice-Pres./Telecomm

Date: 02/02/2012

**APPROVED AS TO LEGAL FORM:**

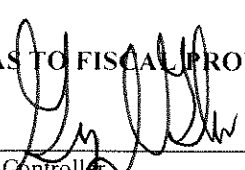
By:   
Deputy County Counsel

Date: 2-10-12

By:   
Title: (Signature of Sec, Asst. Sec, CFO, Treasurer)  
Melissa G. Bachmann, Secretary / Treasurer

Date: 02/02/2012

**APPROVED AS TO FISCAL PROVISIONS:**

By:   
Auditor-Controller

Date: 2-10-12

FEB 13 2012 

**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES**  
**(NOT TO EXCEED \$100,000)**

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

Specialty Construction, Inc.  
(hereinafter "CONTRACTOR").

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

1. **SERVICES TO BE PROVIDED.** 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 services are generally described as follows:

Provide certified personnel for work at public safety communications towers within Monterey County

2. **PAYMENTS BY COUNTY.** 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 \$ 66,666.72.

3. **TERM OF AGREEMENT.** The term of this Agreement is from November 1, 2009 to June 30, 2012, 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.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** 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    Certificate of Insurance

**5. 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. PAYMENT CONDITIONS.**

6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to County. If not otherwise specified, the CONTRACTOR may 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 as the County may require. The Contract Administrator or his or her designee 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.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

## **7. 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.

8. **INDEMNIFICATION.** Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

## **9. INSURANCE.**

### **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.

☐ Exemption/Modification (Justification attached; subject to approval).

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.

☐ Exemption/Modification (Justification attached; subject to 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.

☐ Exemption/Modification (Justification attached; subject to 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.

☐ Exemption/Modification (Justification attached; subject to approval).

9.04. Other Insurance 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 at all times 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. RECORDS AND CONFIDENTIALITY.**

10.01. 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.

10.02. 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.

10.03. 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.

10.04. 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.

10.05. 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. **NON-DISCRIMINATION.** 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. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** 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. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times 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 particular 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. **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:	FOR CONTRACTOR:
David C. Dalby, Assistant Director of IT	Thomas McBryde, VP of Telecommunications
Name and Title	Name and Title
Information Technology Department, County of Monterey 1590 Moffett Street Salinas, California 93905	Specialty Construction, Inc. 645 Clarion Court San Luis Obispo, California 93401
Address	Address
(831) 759-6919	(805) 543-1706
Phone	Phone

15. **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 professional 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.
- 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.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

By: Rebecca Z. Ford for H. Davis  
Contracts/Purchasing Manager

Date: 11/5/09

By: \_\_\_\_\_  
Department Head (if applicable)

Date: \_\_\_\_\_

Approved as to Form<sup>1</sup>

By: Shari Kirkbride  
Deputy County Counsel  
Date: 11-4-09

Approved as to Fiscal Provisions<sup>2</sup>

By: [Signature]  
Auditor/Controller  
Date: 11-4-09

Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
Risk Management  
Date: \_\_\_\_\_

**CONTRACTOR**

Specialty Construction, Inc.  
Contractor's Business Name\*

By: [Signature]  
(Signature of Chair, President, or  
Vice-President)\*

Thomas McBryde, VP of Telecommunications  
Name and Title

Date: 10/28/09

By: [Signature]  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)\*

Melissa G. Bachmann, V.P./Sec./Treas.  
Name and Title

Date: 10/28/09

ENTERED

NOV - 6 2009

D BAYARD

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

<sup>1</sup>Approval by County Counsel is required only if changes are made to the standard provisions of the PSA

<sup>2</sup>Approval by Auditor/Controller is required

<sup>3</sup>Approval by Risk Management is required only if changes are made in paragraph 8 or 9

**EXHIBIT A: SCOPE OF SERVICES**  
County of Monterey – Department of Information Technology  
To Provide Certified Personnel for Work At  
Public Safety Communications Towers within Monterey County

This Scope of Services is between the County of Monterey ("*County*") and Specialty Construction Inc. ("*Contractor*") and sets forth the expected tasks, consulting, service levels, and responsibilities of Contractor in providing qualified personnel for engaging in work at public safety communications towers located within Monterey County.

**Article I. Scope of Services.**

**A. Installation and/or repair of equipment on public safety communications equipment:**

(1) To install, replace, or repair public safety communications equipment that is mounted on communications towers within Monterey County. The term "*equipment*" includes, but is not limited to, antennas, mounting hardware, coax, waveguide, fittings, replace of outdoor units (the "ODU's"), microwave dishes, and splitters.

(2) To install any and all equipment in accordance with engineering specifications described by Contractor.

(3) To provide own transportation to the site location designated for work. To facilitate access, County staff will escort Contractor to and through any and all locations, including sites secured or gated.

**B. Qualifications of Contractor; Safety Compliance.**

(1) Tower Climbing Certification. Contractor shall implement all procedures and take all measures necessary to ensure that only those Contractor's employees or agents who have been properly trained as qualified climbers in accordance with commonly recognized industry practices and applicable federal and state laws and regulations shall climb tower structures. County shall have no responsibility to monitor elevated work by Contractor's employees or agents or to verify training of the same. "*Elevated work*" means any work over six feet above ground level, including, but not limited to, any means of elevating personnel above the ground, any tower climbing, tower antenna or equipment installation, or maintenance activities on towers. The performance of elevated work by any of Contractor's employees or agents who have not been properly trained as qualified climbers shall constitute a material breach of this Agreement. Upon such material breach, County shall have the right to immediately terminate this Agreement.

(2) Radio Frequency Exposure Safety. Contractor and its employees or agents represent and warrant that they are fully aware of and knowledgeable about the inherent dangers of working on or near tower, rooftop, or other wireless communication sites that are "live", i.e., that are actively receiving and/or transmitting radio signals that may create radio frequency radiation ("RFR") (hereinafter "*live sites*"). Contractor shall implement all procedures and take all measures necessary to ensure that only those Contractor's employees or agents who have satisfactorily completed RFR safety training in accordance with FCC OET 65, the most current applicable updates in regulations and guidelines set forth by the Occupational Safety and Health Administration ("OSHA") of the United States Department of Labor, and commonly recognized industry practices, may enter a Live Site or perform Work on a Live Site. The performance of work on a Live Site by any of Contractor's employees or agents who have not satisfactorily completed RFR safety training shall constitute a material breach of this Agreement. Upon such material breach, County shall have the right to immediately terminate this Agreement.

ENTERED

NOV - 6 2009

D BAYARD

Project ID: Agreement with Specialty Construction Inc.  
Not To Exceed \$66,666.72 (Exhibit A)

(3) Regulatory Compliance. In performing the work referred to in Article I, Section A above, Contractor and its personnel shall adhere to any and all federal and State of California rules and regulations set forth by the Occupational Safety and Health Administration ("OSHA") of the United States Department of Labor, specifically the Code of Federal Regulations Title 29, Part 1926 entitled "Safety and Health Regulations for Construction", and California OSHA Title 8, Chapter 4, Subchapter 21 entitled "Telecommunication Safety Orders".

## **Article II. Payment Provisions.**

1. Time and Materials. Contractor shall bill on a project-by-project basis.
2. Address for Invoices. Invoices shall be mailed to David C. Dalby, Assistant Director, Department of Information Technology, 1590 Moffett Street, Salinas, California 93905.
3. Total Compensation; Additional Work. It is mutually understood and agreed upon by both Contractor and County that Contractor's total compensation under this Agreement shall not exceed the following:

November 1, 2009 to June 30, 2010.....	\$16,666.72
July 1, 2010 to June 30, 2011.....	\$25,000.00
July 1, 2011 to June 30, 2012.....	<u>\$25,000.00</u>
Total:	\$66,666.72

Although limited by this "not to exceed" amount, County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement. Any additional work must be provided under an Amendment to this Agreement, or a separate Professional Services Agreement executed prior to commencement of work, which may require approval by the Board of Supervisors of the County.

4. Submittal of Invoice. For any work covered by this Agreement, Contractor shall submit an invoice at the completion of services, not later than thirty (30) days after completion of services. The invoice shall set forth the amounts claimed by Contractor for the length of the term set forth in this Agreement, with an itemized basis for the amounts claimed, and other information providing a basis for the charges. Invoices shall be submitted to County no more than once per month. 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 issuance of payment. The County Auditor-Controller shall pay the amount certified within thirty (30) days of receiving the certified invoice

## **Article III. Term.**

The term of this Agreement shall be November 1, 2009 to June 30, 2012, unless either party terminates the Agreement, at anytime by providing prior written notice to the other party.

**EXHIBIT B: CERTIFICATE OF INSURANCE**  
County of Monterey – Department of Information Technology  
To Provide Certified Personnel for Work At  
Public Safety Communications Towers within Monterey County

(See Attached Documents)