# **Monterey County**

Monterey County Government Center Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901



Meeting Agenda - Final-Revised

Tuesday, March 2, 2021

9:00 AM

# IMPORTANT COVID-19 NOTICE ON PAGE 2-4 AVISO IMPORTANTE SOBRE COVID-19 EN LA PAGINA 2-4

https://montereycty.zoom.us/j/224397747

# **Board of Supervisors**

Chair Supervisor Wendy Root Askew - District 4 Vice Chair Supervisor Mary L. Adams - District 5 Supervisor Luis A. Alejo - District 1 Supervisor John M. Phillips - District 2 Supervisor Chris Lopez - District 3 **Important Notice Regarding COVID 19** 

Based on guidance from the California Department of Public Health and the California Governor's Office, in order to minimize the spread of the COVID 19 virus, please do the following:

1. While the Board chambers remain open, you are strongly encouraged to observe the live stream of the Board of Supervisors meetings at http://monterey.granicus.com/ViewPublisher.php? view\_id=19, http://www.mgtvonline.com/, www.youtube.com/c/MontereyCountyTV or https://www.facebook.com/MontereyCoInfo/

If you attend the Board of Supervisors meeting in person, you will be required to maintain appropriate social distancing, i.e., maintain a 6-foot distance between yourself and other individuals.

2. If you choose not to attend the Board of Supervisors meeting but desire to make general public comment, or comment on a specific item on the agenda, you may do so in three ways:

a. submit your comment via email by 5:00 p.m. on the Monday prior to the Board meeting. Please submit your comment to the Clerk of the Board at cob@co.monterey.ca.us. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.

b. if you are watching the live stream of the Board meeting, you may submit your comment, limited to 250 words or less, to the Clerk of the Board at publiccomment@co.monterey.ca.us. General public comment must be received during the General Public Comment item on the agenda, and comments on specific agenda items must be received as it is being heard. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Every effort will be made to read your comment into the record, but some comments may not be read due to time limitations. Comments received after an agenda item will be made part of the record if received prior to the end of the meeting.

c. you may participate through ZOOM. For ZOOM participation please join by computer audio at: https://montereycty.zoom.us/j/224397747

OR to participate by phone call any of these numbers below:

+1 669 900 6833 US (San Jose) +1 346 248 7799 US (Houston) +1 312 626 6799 US (Chicago) +1 929 205 6099 US (New York) +1 253 215 8782 US +1 301 715 8592 US Enter this Meeting ID number: 224397747 when prompted. Please note there is no Participant Code, you will just hit # again after the recording prompts you.

You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push \*9 on your keypad.

**3.** You are encouraged to participate via Zoom as the Monterey Room on the 2nd floor of the County Government Center will not be available for overflow seating during this meeting.

Aviso importante sobre COVID 19

Basado en la guía del Departamento de Salud Pública de California y la Oficina del Gobernador de California, para minimizar la propagación del virus COVID 19, haga lo siguiente:

1. Mientras las cámaras de la Junta permanecen abiertas, le recomendamos que observe la transmisión en vivo de las reuniones de la Junta de Supervisores en http://monterey.granicus.com/ViewPublisher.php?view\_id=19, http: //www.mgtvonline .com /, www.youtube.com/c/MontereyCountyTV o https://www.facebook.com/MontereyCoInfo/

Si asiste a la reunión de la Junta de Supervisores en persona, deberá mantener un distanciamiento social apropiado, es decir, mantener una distancia de 6 pies entre usted y otras personas.

2. Si elige no asistir a la reunión de la Junta de Supervisores pero desea hacer un comentario público general o comentar un tema específico de la agenda, puede hacerlo de tres maneras:

a. envíe su comentario por correo electrónico antes de las 5:00 p.m. el lunes anterior a la reunión de la Junta. Envíe su comentario al Secretario de la Junta a cob@co.monterey.ca.us. En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (es decir, la agenda de la Junta de Supervisores) y el número de ítem (es decir, el ítem No. 10). Su comentario se colocará en el registro en la reunión de la Junta.

b. Si está viendo la transmisión en vivo de la reunión de la Junta, puede enviar su comentario, limitado a 250 palabras o menos, al Secretario de la Junta en publiccomment@co.monterey.ca.us. Los comentarios del público en general deben recibirse durante el elemento de Comentarios del público en general en la agenda, y los comentarios sobre los elementos específicos de la agenda deben recibirse mientras se escuchan. En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (es decir, la agenda de la Junta de Supervisores) y el número de ítem (es decir, el ítem No. 10). Se hará todo lo posible para leer su comentario en el registro, pero algunos comentarios pueden no leerse debido a limitaciones de tiempo. Los comentarios recibidos después de un ítem de la

agenda serán parte del registro si se reciben antes del final de la reunión.

c. Puedes participar a través de ZOOM. Para participar en ZOOM, únase por audio de computadora en: https://montereycty.zoom.us/j/224397747

O para participar por teléfono, llame a cualquiera de estos números a continuación:

+1 669 900 6833 EE. UU. (San José) +1346248 7799 EE. UU. (Houston) +1312626 6799 EE. UU. (Chicago) +1929205 6099 EE. UU. (Nueva York) +1 253 215 8782 EE. UU. +1301715 8592 EE. UU.

Ingrese este número de ID de reunión: 224397747 cuando se le solicite. Tenga en cuenta que no hay un Código de participante, simplemente presionará # nuevamente después de que la grabación lo solicite.

Se lo colocará en la reunión como asistente; cuando esté listo para hacer un comentario público si se une al audio de la computadora, levante la mano; y por teléfono presione \* 9 en su teclado.

3. Se le anima a participar a través de Zoom, ya que la sala de Monterey en el segundo piso del Centro de Gobierno del Condado no estará disponible para asientos adicionales durante esta reunión.

#### **Board of Supervisors**

The Board of Supervisors welcomes you to its meetings, which are regularly scheduled each Tuesday. Your interest is encouraged and appreciated. Meetings are held in the Board Chambers located on the first floor of the Monterey County Government Center, 168 W. Alisal St., Salinas, CA 93901. As a courtesy to others, please turn off all cell phones and pagers prior to entering the Board Chambers.

ALTERNATE AGENDA FORMATS: If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Individuals with a disability requiring a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may make these requests to the Clerk of the Board Office. CEREMONIAL/APPOINTMENTS/OTHER BOARD MATTERS: These items may include significant financial and administrative actions, and items of special interest, usually approved by majority vote for each program. The regular calendar also includes "Scheduled Items," which are noticed hearings and public hearings.

CONSENT CALENDAR: These matters include routine financial and administrative actions, appear in the supplemental section by program areas, and are usually approved by majority vote.

TO ADDRESS THE BOARD ON A MATTER ON THE AGENDA: Walk to the podium and wait for recognition by the Chair. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the specific subject under discussion. Time limitations shall be at the discretion of the Chair, with equal time allocated to opposing sides of an issue insofar as possible. Allocated time may not be reserved or granted to others, except as permitted by the Chair. On matters for which a public hearing is required, please note that a court challenge to the Board's action may be limited to only those issues raised at the public hearing or in correspondence delivered to the Board at or before the public hearing.

TO ADDRESS THE BOARD DURING PUBLIC COMMENT: Members of the public may address comments to the Board concerning each agenda item and may comment when the Chair calls for general public comment for items that are not on the day's agenda. The timing of public comment shall be at the discretion of the Chair.

DOCUMENT DISTRIBUTION: Documents related to agenda items that are distributed to the Board less than 72 hours prior to the meeting shall be available for public inspection at the Clerk of the Board Office, 168 W. Alisal Street, 1st Floor, Salinas, CA. Documents distributed to the Board at the meeting by County staff will be available at the meeting; documents distributed to the Board by members of the public shall be made available after the meeting.

INTERPRETATION SERVICE POLICY: The Monterey County Board of Supervisors invites and encourages the participation of Monterey County residents at its meetings. If you require the assistance of an interpreter, please contact the Clerk of the Board located in the Monterey County Government Center, 168 W. Alisal St., Salinas - or by phone at (831) 755-5066. The Clerk will make every effort to accommodate requests for interpreter assistance. Requests should be made as soon as possible, and at a minimum 24 hours in advance of any meeting of the Board of Supervisors.

La Cámara de Supervisores del Condado de Monterey invita y apoya la participación de los residentes del Condado de Monterey en sus reuniones. Si usted requiere la asistencia de un interprete, por favor comuníquese con la oficina de la Asistente de la Cámara de Supervisores localizada en el Centro de Gobierno del Condado de Monterey, (Monterey County Government Center), 168 W. Alisal, Salinas – o por teléfono al (831) 755-5066. La Asistente hará el esfuerzo para acomodar los pedidos de asistencia de un interprete. Los pedidos se deberán hacer lo mas pronto posible, y a lo mínimo 24 horas de anticipo de cualquier reunión de la Cámara de Supervisores.

All documents submitted by the public must have no less than ten (10) copies.

The Clerk of the Board of Supervisors must receive all materials for the agenda packet by noon on the Tuesday one week prior to the Tuesday Board meeting.

Any agenda related writings or documents distributed to members of the County of Monterey Board of Supervisors regarding any open session item on this agenda will be made available for public inspection in the Clerk of the Board's Office located at 168 W. Alisal St., 1st Floor, Salinas, California. during normal business hours and in the Board Chambers on the day of the Board Meeting, pursuant to Government Code §54957.5 NOTE: All agenda titles related to numbered agenda items are live web links. Click on the title to be directed to the corresponding Board Report.

PUBLIC COMMENT: Members of the public may address comments to the Board concerning each agenda item. The timing of public comment shall be at the discretion of the Chair.

<u>Please refer to the separate agendas for Special Districts and Agencies governed by the Board of</u> <u>Supervisors that may be scheduled for agenda items today.</u>

Pursuant to Governor Newsom's Executive Order No. N-29-20, some or all Supervisors may participate in the meeting by telephone or video conference.

#### 9:00 A.M. - Call to Order

#### <u>Roll Call</u>

#### Additions and Corrections for Closed Session by County Counsel

County Counsel will announce agenda corrections and proposed additions, which may be acted on by the Board as provided in Sections 54954.2 of the California Government Code.

#### **Closed Session**

1.

Closed Session under Government Code section 54950, relating to the following items:

a. Pursuant to Government Code section 54957(a), the Board will confer with County Counsel regarding matters posing a threat to the security of public buildings, essential public services, or the public's right of access to public services or facilities.

b. Pursuant to Government Code section 54957.6, the Board will provide direction to negotiators:
(1) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado
Employee Organization(s): All Units
(2) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado
Employee Organization(s): Unit J
(3) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado
Employee Organization(s): Unit R
(4) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado
Employee Organization(s): Unit R
(4) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado
Employee Organization(s): Unit R
(4) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado
Employee Organization(s): Unit R
(4) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado

c. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:

(1) *Garcia v. County of Monterey, et al.* (Monterey County Superior Court case no. 18CV002543)

(2) *Carmel Valley Association, Inc. v. County of Monterey et al.* (Monterey County Superior Court Case No. 17CV000131/Court of Appeal Case No. H046187)

#### Public Comment

#### The Board Recesses for Closed Session Agenda Items

Closed Session may be held at the conclusion of the Board's Regular Agenda, or at any other time during the course of the meeting, before or after the scheduled time, announced by the Chairperson of the Board. The public may comment on Closed Session items prior to the Board's recess to Closed Session.

#### 10:30 A.M. - Reconvene on Public Agenda Items

<u>Roll Call</u>

#### Pledge of Allegiance

#### Additions and Corrections by Clerk

The Clerk of the Board will announce agenda corrections and proposed additions, which may be acted on by the Board as provided in Sections 54954.2 of the California Government Code.

#### Consent Calendar- (See Supplemental Sheet)

**2.** Approval of Consent Calendar Items No. 19 through 25.

#### **Ceremonial Resolutions**

3.	Resolution Recognizing Charles T. Olvis' 40 years of Service with the Monterey County District Attorney's Office. (Full Board - Supervisor Adams)
	Attachments: Ceremonial Resolution - Chuck Olvis
4.	Resolution Proclaiming March 2021 as Women's History Month in Monterey County. (Full Board - Supervisor Askew)
	Attachments: Ceremonial Resolution - Women's History Month
5.	Resolution to Denounce Hate Crimes and Rhetoric Against Asian Americans and Pacific Islanders and Reaffirm Our Commitment to Ensure API Americans Feel Safe

and Welcome. (Full Board - Supervisor Alejo)

Attachments: Ceremonial Resolution - Denounce Hate Crimes and Rhetoric

#### **Other Board Matters**

6.	Board Comments
7.	County Administration Officer Comments and Referrals
	Attachments: Referrals 3-02-21
8.	Recognize Monterey County employee Olga Guzman for her photo of two little girls outside a fast-food restaurant in East Salinas accessing the internet for their school classes.
9.	General Public Comments
<u> 10:30 A.M Scheduled I</u>	Matters
10.	Public hearing to consider continuing the hearing to March 16, 2021 on an appeal by Rosana Rader and Michael Smith from the July 30, 2020 decision of the Zoning Administrator to approve a Design Approval for a fence ranging in height from four (4) to six (6) feet and to consider waiving the appeal fees. [PLN190255 - SMITH & RADER (APN 177-061-003-000)]
	Attachments: Board Report
11.	Receive the Monterey County Financial Forecast, which assesses the County's fiscal condition for the current year and three forecast years (FY 2021-22 through FY 2023-24).
	<u>Attachments:</u> Board Report March 2021 Monterey County Financial Forecast
13.00 D.M. Darres 4. J	
12:00 P.M Recess to L	

### <u>1:30 P.M. - Reconvene</u>

#### Roll Call

#### 1:30 P.M. - Scheduled Matters

12.

a. Briefing and update on COVID-19, including impacts, and action, proposals and plans to address (verbal report);

b. Provide direction to staff to address COVID-19

# **13.** Update on COVID-19 Community Health Worker Project.

### Read Out from Closed Session by County Counsel

Read out by County Counsel will only occur if there is reportable action(s).

### **Adjournment**

### Supplemental Sheet, Consent Calendar

#### **Natividad Medical Center**

14.	Appendix A to indicated; and	sonnel Policies and Practices Resolution (PPPR) No. 98-394 o adjust the salary range for the classification of Medical Unit Clerk, as Human Resources Department to implement the changes in the
	<u>Attachments:</u>	Board Report.pdf RESOLUTION
15.	designee to ex Computer Sys extending the March 31, 202	the Chief Executive Officer for Natividad Medical Center (NMC) or his secute amendment No. 1 to the agreement (A-13073) with Clinical stems for OBIX perinatal monitoring and data system services, agreement an additional five (5) year period (April 1, 2021 through 26) for a revised full agreement term of April 1, 2016 through March adding \$266,450 for a revised total agreement amount not to exceed
	<u>Attachments:</u>	Board Report.pdf
		Clinical Computer Systems Amendment No. 1.pdf Clinical Computer Systems OBIX 2016 Agreement.pdf
16.	designee to ex Devices, Inc. 1 lab (IR) unit a change to the	the Chief Executive Officer for Natividad Medical Center (NMC) or his accute amendment No. 2 to the agreement (A-14062) with Modular for the continued lease of a mobile angiography/interventional radiology nd a mobile magnetic resonance imaging (MRI) unit at NMC, with no term of the agreement, and adding \$477,000 for a revised total ount not to exceed \$4,262,000.
	<u>Attachments:</u>	Board Report.pdf
		Board Report.pdf
		Modular Devices Amendment No. 2.pdf Modular Devices Amendment 1.pdf
		Modular Devices Lease Agreement.pdf
17.	designee to ex learning tool a of April 1, 202 b. Authorize t	the Chief Executive Officer for Natividad Medical Center (NMC) or his secute an agreement with RQI Partners, LLC for the HeartCode at NMC for an amount not to exceed \$88,208 with an agreement term 21 through March 31, 2024. The Chief Executive Officer for NMC or his designee to execute up to e amendments to the agreement which do not significantly alter the

	(\$8,820) of th c. Approve th	k and do not cause an increase of more than ten percent (10%) ne original cost of the agreement. ne NMC Chief Executive Officer's recommendation to accept insurance, limitations on liability, and limitations on damages provisions reement.
	Attachments:	Board Report.pdf
		RQIP MSA Monterey County - Natividad MC RQIP.pdf
18.	designee to ex messaging se term retroacti b. Approve th non-standard	the Chief Executive Officer for Natividad Medical Center (NMC) or his execute an agreement with Secure Exchange Solutions, Inc. for secure rvices at NMC for an amount not to exceed \$58,500 with an agreement twe to December 1, 2020 through November 31, 2023. The NMC Chief Executive Officer's recommendation to accept indemnification, insurance, limitations on liability, and limitations on visions within the agreement.
	<u>Attachments:</u>	Board Report.pdf
		Secure Exchange Solutions SaaS Agreement.pdf
		Secure Exchange Solutions BAA.pdf
19.	designee to ex Recruitment s additional eig a revised full	e Chief Executive Officer for Natividad Medical Center (NMC) or his xecute amendment No. 2 to the agreement (A-13971) with Spin Services for advertising recruitment services, extending the agreement an ghteen month (18) period (July 1, 2021 through December 31, 2022) for agreement term of July 1, 2018 through December 31, 2022, and 000 for a revised total agreement amount not to exceed \$900,000.
	<u>Attachments:</u>	Board Report.pdf
		Spin Recruitment Amendment 2.pdf
		Spin Recruitment Svs Amendment 1.pdf
		Spin Recruitment Agreement.pdf
<u>Health Department</u>		
20.	Agreement w access to the February 1, 2 b. Approve th provisions in and c. Authorize to to sign up to the	execution by the Director of Health, of an Enterprise Subscription rith Doximity, Inc. signed on January 29, 2021, allowing continued encrypted, HIPAA-compliant telemedicine dialer feature for the term 021 to January 31, 2022 for an Agreement amount of \$25,000; and he recommendation of Director of Health to accept all non-standard Agreement, including insurance, limitation of liability, and indemnification; the Director of Health or Assistant Director of Health or their designees three (3) future amendments to this Agreement where the amendments cantly change the scope of work.

	<u>Attachments:</u>	Board Report
		Enterprise Subscription Agreement
21.	Adopt a resolu Fires Incident	ution continuing the Local Health Emergency for the Monterey County
	<u>Attachments:</u>	Board Report
		Resolution
		RES 21-031 Board Order and Resolution
		RES 21-008 Board Order and Resolution
		Res 20-384 Board Order and Resolution
		RES 20-359 Board Order and Resolution
		RES 20-332 Board Order and Resolution
		RES 20-298 Board Order and Resolution
		Declaration of Local Health Emergency 9.10.2020
		Declaration of Local Health Emergency 9.3.2020

#### **Department of Social Services**

22.

a. Approve and authorize the Director of the Department of Social Services to sign County Purchase MT-01-2020 with the California Statewide Automated Welfare Systems (CalSAWS) Project in the amount of \$296,235 to continue recurring Production Operations charges for central support of the Monterey County's Customer Service Center, Regional Contact Center (RCC) for Medi-Cal Referrals, and Lobby Management Tools: Facilitated Access Control Tables (FACTS) and Kiosks retroactively for the period of 11/1/20-9/30/2021;
b. Authorize the Director of the Department of Social Services to sign up to three (3) amendments to the County Purchase, where the total amendments do not exceed 10% of the original amount, and do not significantly change the terms of the County Purchase.

<u>Attachments:</u> <u>Board Report</u> <u>County Purchase MT-01-2020</u> CalSAWS MOU 2019

23.

a. Ratify the execution by the County Purchasing Officer or his designee, of agreements with local food vendors to support older adult residents to shelter-in-place during the COVID-19 Pandemic by providing home delivered meals under the Great Plates Delivered and AAA CARES Program in the total cumulative amount of \$4,610,495 for the period June 30, 2020 through March 8, 2021; and
b. Authorize the Contracts/Purchasing Officer or his designee to execute amendments to the Agreements in an amount not to exceed 10% of the aggregate total of each agreement and does not significantly change the scope of the agreement during the course of the Pandemic.

	Attachments:	Board Report
		Attachment A - Contract Summary.pdf
		Coastal Cusine Agreement plus 4 Amendments
		Denny's Marina Agreement plus 4 Amendments
		Linda's Taqueria Agreement plus 1 amendment
		Main Street Bakery Agreement plus 4 Amendments
		Mezzaluna Agreement plus 3 amendments
		Monterey Coast Brewing Agreement plus 4 amendments
		Norma's Agreement plus 2 amendments
		Pasta Mia Agreement plus 4 amendments
		Stevie's Agreement plus 4 Amendments
		The Cork and Plough Agreement plus 1 amendment
	Adopt Resolu	
		nending the Department of Social Services Budget Unit 52-SOC005 to reallocate one (1) Supervising Office Assistant I to one
		ng Office Assistant II, and four (4) Office Assistant II's to four (4)
	• •	ecialist II's for the Community Benefits Program as indicated in
	Attachment A	
		nending the Department of Social Services Budget Unit
	001-5010-826	52-SOC005 to reallocate one (1) Principal Clerk Confidential to one
	(1) Personnel	Technician Confidential for as indicated in attachment A; and
	c. Authorize a	and direct the County Administrative Office and the Auditor-Controller's
		rporate the changes in the FY 2020-21 Adopted Budget Unit
	001-5010-826	52-SOC005 to reflect the change in position counts.
	Attachments:	Board Report
		Attachment A Position Changes.pdf
		Resolution.pdf
		Resolution Word Doc
<u>inal Justice</u>		
	Adopt Resolu	tion to:
	•	submittal of a grant application by the Monterey County Public Defender
	to the Board of	of State and Community Corrections (BSCC) for the Indigent Defense
	Grant Program	n in the amount of \$637,000.00 for funding of Public Defender's
	Attorney and	Case Management Enhancement project (ACME); and
	b. Authorize	he Public Defender or Assistant Public Defender to execute the Grant

Crim

25.

24.

Agreement with BSCC, accepting an Indigent Defense Grant program award for a total grant amount of \$637,000.00, for developing and implementing an ACME project for the grant period February 15, 2021 through June 30, 2023; and c. Approve the delegation of authority to the Public Defender or Assistant Public

Defender to act on the County's behalf to carry out and consummate all transactions contemplated during the grant period.

 Attachments:
 BR BSCC Indigent Grant 2.24.21

 Authorizing Resolution\_RES 21-021\_BSCC Indigent Defense Grant

 BSCC\_Indigent\_Grant\_Proposal Package\_2.5.21

 Signed\_BoardReport\_RES 21-021\_BSCC Indigent Defense Grant

#### **General Government**

26. a. Approve an Amendment to Agreement No. A-14563 between the County of Monterey, by and through the Monterey County Treasurer-Tax Collector and RELX INC, to retroactively approve Amendment #2-2021 for the total not to exceed \$13,000 for the period of January 1, 2021 through December 31, 2021; and b. Authorize the Monterey County Treasurer-Tax Collector to execute the Amendment; and c. Authorize the Monterey County Treasurer-Tax Collector to further amend the Agreement with RELX INC in the future to extend it by one three-year extension or up to three one-year contract extensions where the extending Amendments do not significantly change the scope of work and do not exceed the Agreement amount of \$13,000 per annual extension. Attachments: **Board Report** Amendment #2-2021 to Agreement No. A-14563 27. Adopt a resolution to revise and approve amendments to the Local Agency Formation Commission of Monterey County's Conflict of Interest Code. Attachments: **Board Report** LAFCO COI (Redline) LAFCO COI (Clean) LAFCO Reso No. 20-14 adopt on 12-17-20 Draft Resolution of the BOS 28. Adopt a resolution to revise and approve amendments to Monterey Peninsula Community College District's Conflict of Interest Code. Attachments: **Board Report** MPC COI (redline) MPC COI (clean) MPC Resolution No. 20-52 adopted 12-16-20

Draft BOS Resolution

a. Designate and authorize the Emergency Services Manager to execute anAgreement between the County of Monterey and United Way Monterey County(UWMC) and the Community Foundation of Monterey County for a CommunityResilience grant: and

b. Authorize the Auditor-Controller to amend the Fiscal Year (FY) 2020-21 Office of Emergency Services Fund 024/1050/8412/CAO023 Budget to increase estimated revenue and appropriations in the amount of \$33,000. (4/5th Vote Required).

Attachments: Board report

Board Resolution 2021 MOU Unite Way ComFoundation 0322021Final Community Resiliency Planner Grant

#### Housing and Community Development

30.

29.

prepare an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, and the Contingency Budget is \$19,416.30, for a total amount not to exceed \$148,858.30, for a term from February 24, 2021 to February 23, 2026;
b. Approve a Funding Agreement with The Don Chapin Company, Inc., to fund costs for Rincon Consultants, Inc., incurred by Monterey County for preparing an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, the Contingency Budget is \$19,416.30, and the Contract Administration Fee is \$3,424.00, for a total amount not to exceed \$152,282.30, for a term from February 24, 2021 to February 23, 2026; and
c. Authorize the Housing and Community Development Director or designee to execute the Professional Services Agreement, Funding Agreement and up to three (3)

a. Approve Professional Services Agreement with Rincon Consultants, Inc., to

execute the Professional Services Agreement, Funding Agreement and up to three (3) future amendments to the Agreements where the amendments do not significantly alter the scope of work or increase the approved amount of the Agreements, subject to review and approval by the Office of the County Counsel as to form.

Attachments:Board Report<br/>Attachment A - PSA with Rincon Consultants, Inc.<br/>Attachment B - FA with The Don Chapin Company, Inc.31.a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699<br/>with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact<br/>Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1)<br/>where the Base Budget in the amount of \$76,416 is increased by \$15,194 to<br/>\$91,610 and the Contingency Budget in the amount of \$20,000 is increased by<br/>\$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to<br/>the term of March 10, 2020 to September 30, 2021;

b. Approve Amendment No. 2 to Funding Agreement No. A-14700 with Rancho

Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610, the Contract Administration Fee in the amount of \$892 is increased by \$446 to \$1,338, and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, with no change to the term of March 10, 2020 to September 30, 2021; and c. Authorize the Director of Housing and Community Development or designee to execute Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

#### Attachments: Board Report

Attachment A - Amendment No. 2 to PSA Attachment B - Amendment No. 2 to FA Attachment C - Amendment No. 1 to PSA Attachment D - Amendment No. 1 to FA Attachment E - PSA Attachment F - FA

#### Public Works, Facilities and Parks

32.

a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and

b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

#### Attachments: Board Report

Attachment A - A2 to SA (Signed) Attachment B - A1 to SA Attachment C - Summary of SA Annual Expenditures and Balance Attachment D - Summary of SA Attachment E - Summary of SA Annual Expenditures and Balance SL 02-08-202

### <u>Addenda</u>

#### Added to Closed Session

1. (4) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado\_Employee Organization(s): Units H, J and S



# **Monterey County**

**Board Report** 

### Legistar File Number: CS 21-010

Item No.1

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/19/2021 Version: 1 Current Status: Agenda Ready Matter Type: General Agenda Item

Closed Session under Government Code section 54950, relating to the following items:

a. Pursuant to Government Code section 54957(a), the Board will confer with County Counsel regarding matters posing a threat to the security of public buildings, essential public services, or the public's right of access to public services or facilities.

b. Pursuant to Government Code section 54957.6, the Board will provide direction to negotiators:

(1) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado Employee Organization(s): All Units

(2) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado Employee Organization(s): Unit J

(3) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado Employee Organization(s): Unit R

(4) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado Employee Organization(s): Units H, J and S (ADDED VIA ADDENDA)

c. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:

(1) *Garcia v. County of Monterey, et al.* (Monterey County Superior Court case no. 18CV002543)

(2) *Carmel Valley Association, Inc. v. County of Monterey et al.* (Monterey County Superior Court Case No. 17CV000131/Court of Appeal Case No. H046187)



# **Monterey County**

**Board Report** 

### Legistar File Number: 21-164

March 02, 2021

Item No.2

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

Introduced: 2/19/2021

Version: 1

Current Status: Consent Agenda Matter Type: General Agenda Item

Approval of Consent Calendar Items No. 19 through 25.



**Board Report** 

### Legistar File Number: CR 21-016

Salinas, CA 93901 March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor

Item No.3

Introduced: 2/11/2021 Version: 1 Current Status: Ceremonial Resolution Matter Type: Ceremonial Resolution

Resolution Recognizing Charles T. Olvis' 40 years of Service with the Monterey County District Attorney's Office. (Full Board - Supervisor Adams)

# BEFORE THE BOARD OF SUPERVISORS IN AND FOR THE COUNTY OF MONTEREY, STATE OF CALIFORNIA

Resolution No.)Resolution Recognizing Charles T. Olvis')40 years of Service with the Monterey County)District Attorney's Office)

**WHEREAS, Charles T. Olvis,** served in the United States Army from June 1968 to July 1973 attaining the rank of Captain, with a tour in Vietnam and his major duty assignment at the Pentagon. He served for 24 years in the Army Reserves and retired in 2006 as a Lieutenant Colonel;

**WHEREAS, Charles T. Olvis**, received a B.S. degree from the U.S. Military Academy, West Point, NY in 1968; and received his J.D. degree from the University of Santa Clara in 1976 and was admitted to the State Bar of California on December 22, 1976;

**WHEREAS, Charles T. Olvis**, began his career as a prosecutor with the Riverside County District Attorney's Office in 1977; was hired as a Deputy District Attorney with the Monterey County District Attorney's Office on June 29, 1981; was promoted to Managing Deputy District Attorney on April 24, 2000; and to Assistant District Attorney on January 19, 2019, the position he held until his retirement;

**WHEREAS, Charles T. Olvis,** from 1981 to 2020 was a Professor at the Monterey College of Law teaching classes on Criminal Trial Practice for which he received the Outstanding Professor Award in 1992 ; between 1995 and 1997 he acted as the President of the Board of Directors for the Suicide Prevention and Crisis Center;

**WHEREAS, Charles T. Olvis,** during his 40-year career has prosecuted criminals for murder, gang crimes, crimes committed in prison, adult and child sexual assault, drug sales and juvenile offenders. He has represented the District Attorney at life prisoner parole hearings;

WHEREAS, Charles T. Olvis was a manager beloved by those he supervised, and his lawyers progressed rapidly under his tutelage. His firm sense of right and wrong provided the essential bedrock for his approach to prosecution, and that philosophy—in which justice is the only worthwhile end—he successfully instilled in the attorneys he led;

**WHEREAS, Charles T. Olvis,** will enjoy his retirement by perusing his various hobbies which include playing golf, improving his photographic and bridge playing skills, volunteering with the St. Vincent De Paul Society, traveling to Newfoundland, Canada, his Mother's Birthplace, and any other country which has a golf course which must be played;

**NOW, THEREFORE, BE IT RESOLVED,** that the Monterey County Board of Supervisors, on behalf of the County and all citizens thereof, hereby acknowledges Assistant District Attorney Charles T. Olvis' 40 years of service to the Monterey County District Attorney's Office.



# **Board Report**

#### Legistar File Number: CR 21-017

Current Status: Ceremonial Resolution Matter Type: Ceremonial Resolution

Resolution Proclaiming March 2021 as Women's History Month in Monterey County. (Full Board - Supervisor Askew)

# Introduced: 2/22/2021

Version: 1



Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021



### Before the Board of Supervisors in and for the County of Monterey, State of California

### **Resolution No.: Resolution Proclaiming March 2021 as Women's History Month in Monterey County**

**WHEREAS,** Women of every race, gender identity, class, and ethnic background make contributions to the growth and strength of our County in countless recorded and unrecorded ways; and

**WHEREAS,** Women play critical economic, cultural, and social roles in every sphere of life, constituting a significant portion of the labor force, working both in and out of the home, as well as courageously serving in our country's armed forces; and

**WHEREAS,** Women are leaders, serving in the forefront of progressing social change movements, securing their right of suffrage and equal opportunity, and fighting for the civil rights of others to create a more fair and just society; and

**WHEREAS,** Despite these contributions, the role of women in our society has been curtailed and consistently overlooked and undervalued in the literature, teaching, and study of American history. Including Sojourner Truth, Lucy Stone, Lucretia Mott, Elizabeth Cady Stanton, Harriet Tubman, Alice Paul, among other women leaders who struggled for equality; and

**WHEREAS,** Women's history takes a fresh look at all that has gone before and tells the story of our shared past from a different perspective, not rewriting history, but presenting and expanding a version of history that recognizes and honors the accomplishments of women; and

**WHEREAS,** In 1980, the National Women's History Project, a non-profit educational organization, was set up to recognize and celebrate the diverse and significant historic accomplishments of women, and successfully lobbied Congress to designate March as National Women's History Month in 1987; and

**WHEREAS**, 2020 marked the centennial of the ratification of the 19<sup>th</sup> Amendment to the United States Constitution, which recognizes women's right to vote and the culmination of their countless struggle and fight for equal rights;

WHEREAS, Since most of the women's suffrage centennial celebrations were curtailed, the National Women's History Project has extended the celebrations and selected "Valiant Women of the Vote: Refusing to be Silenced" as this year's annual theme to ensure the critical roles of multicultural suffragists and voting rights activists continue to be recognized and honored, refusing to allow their voices to be silenced because of the global pandemic;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of the County of Monterey does hereby proclaim the month of March 2021 as **Women's History Month** in Monterey County.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote, to wit: AYES: NOES: ABSENT: I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_\_, 2021.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

By\_\_\_\_\_

Deputy



# **Monterey County**

**Board Report** 

Legistar File Number: CR 21-018

Item No.5

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/23/2021 Version: 1 Current Status: Ceremonial Resolution
Matter Type: Ceremonial Resolution

Resolution to Denounce Hate Crimes and Rhetoric Against Asian Americans and Pacific Islanders and Reaffirm Our Commitment to Ensure API Americans Feel Safe and Welcome. (Full Board -Supervisor Alejo)

## Before the Board of Supervisors in and for the County of Monterey, State of California

# **Resolution No.:**

Resolution to Denounce Hate Crimes and Rhetoric Against Asian Americans and Pacific Islanders, and Reaffirm Our Commitment To Ensure API Americans Feel Safe and Welcome

**WHEREAS,** The Asian Pacific Policy and Planning Council and Chinese for Affirmative Action launched a hate incident-reporting internet website, "Stop AAPI Hate," at the beginning of the COVID-19 outbreak in March of 2020; and

**WHEREAS,** The Stop AAPI Hate Reporting Center reported over 2,800 hate incidents against Asian Pacific Islander (API) Americans in 2020; and

**WHEREAS,** Discrimination and racism towards APIs has always existed, such as the 19th century scapegoating of APIs, also known as "Yellow Peril"; and

**WHEREAS**, Racism, hate crimes and negative rhetoric towards APIs has been exacerbated by the COVID-19 pandemic; and

**WHEREAS,** Politically charged and culturally insensitive language referring to COVID-19 as the "Chinese virus" or "kung flu" further encouraged racism, prejudice and hate crimes towards APIs; and

**WHEREAS,** The promotion of such language by the former President Donald Trump during his term further propagated anti-API sentiment in light of COVID-19; and

**WHEREAS**, On January 31, 2021, three elderly Asian Americans were assaulted in the City of Oakland's Chinatown District, including a 91-year-old Asian man who sustained serious injuries, such as lacerations, abrasions, and a contusion to the left thumb, in what is deemed a hate crime; and

**WHEREAS,** On January 30, 2021, 84-year-old Vicha Ratanapakdee, a nearly-blind and gentle elderly Thai man, died from injuries resulting from an attack while he was walking in the City of San Francisco, in what is deemed as a hate crime; and

WHEREAS, About 31 percent of Asian Americans report having been subject to discrimination since the beginning of the COVID-19 pandemic, according to a Pew Research Center report; and

**WHEREAS,** Asian Americans in the State of California are increasingly concerned about their safety and well-being, given the rise of hate crimes and other racially motivated attacks; and

**WHEREAS,** Asian Americans in the State of California are more concerned about the safety of themselves and their families that are currently at high risk of being targeted; and

**WHEREAS,** In 2020, the California State Legislature's API Legislative Caucus spoke out against anti-API hate crimes in an effort to stand up for immigrant and refugee individuals; and

**NOW, THEREFORE BE IT RESOLVED,** that the Monterey County Board of Supervisors, on behalf of the County and all residents thereof, denounce hate crimes, hateful rhetoric and hateful acts against Asian Americans and Pacific Islanders, and reaffirm our commitment to ensure that API Americans feel safe and welcome, both during this COVID-19 pandemic and beyond; and

**FURTHER BE IT RESOLVED,** that the Clerk of the Board of Supervisors transmit copies of this resolution to Governor Gavin Newsom, U.S. Senators Alex Padilla and Dianne Feinstein, Congressmember Jimmy Panetta, State Senators Anna Caballero and John Laird, State Assemblymembers Robert Rivas and Mark Stone and the Japanese American Citizens League (JACL) Chapters of Monterey County.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote, to wit:

# AYES: NOES: ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_\_ for the meeting on \_\_\_\_\_\_, 2019.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California.

Ву\_\_\_\_\_

Deputy



# **Monterey County**

# **Board Report**

Legistar File Number: OBM 21-026

Salinas, CA 93901 March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor

Item No.6

Current Status: Board Comments Matter Type: Other Board Matters

Introduced: 2/19/2021 Version: 1

**Board Comments** 



# **Board Report**

Legistar File Number: OBM 21-027

Salinas, CA 93901 March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor

Item No.7

Current Status: County Administrative Officer Comments and Referrals Matter Type: Other Board Matters

County Administration Officer Comments and Referrals

Page 1

Introduced: 2/19/2021

Version: 1



#### Monterey County Board of Supervisors

Monterey County Board of Supervisors MEETING: March 2, 2021 - Other Board Matters														
	SUBJECT:						Board Referrals Update							
DEPARTMENT:						County Administrative Office								
Item #	Brd Rfl #	Assignment Date Referred Rv	Kererred By	Lead Dept. Sub-Depts.	Project Lead	Requested Due	Item	Report	Status					
1	2016.02	4/12/16 Adams	Adams	HCD County Counsel	Girard/Novo	5/10/16	Short Term Rental (STR) Ordinance a) Prioritize completion of the STR rental ordinance by scheduling a final meeting of the STR Working Group; and b) Present a complete STR Ordinance to the Planning Commission; c) County Counsel respond to the Board re. County not engage in code violation citations while the STR ordinance is being developed.	Staff presented the draft vacation rental ordinances to the Board on November 17, 2020, and pursuant to Board direction, anticipate returning with recommendations to the Board in-late April/early May 2021.	Pending					
2	2017.18	9/19/17 Board	Board	HRD	Ramirez-Bough	10/24/17	Request a presentation to the Board of Supervisors with options for commissioner compensation that supports our ability to recruit a diverse and representative pool of commissioners.	The item was presented to the Board on 10/2/2018. The Board directed that HR: 1) convene a committee of Department Heads that manage significant boards and commissions to develop a Commissioner Recruitment Strategy; 2) ask departments to provide information related to the diversity of their current volunteer Commissioner's and committee members; and 3) work with County Counsel and Auditor to determine what would be involved/required to actively implement reimbursement to these volunteers, with budget/cost implications. A report will be presented to the Board in March 2021.	Pending					
3	2017.20	11/19/19 Aleio	ofare	PWFP	Ishii	1/28/20	Lease agreement between the City of Salinas and the County of Monterey regarding County's parcel adjacent 855 East Laurel Drive in Salinas for the implementation of a BMX Bike Track, new Skate Park, and sidewalk on East Laurel Drive in Salinas.	An initial referral was initiated on September 15, 2017. On September 1, 2017, Supervisor Alejo held a meeting with the City of Salinas, County RMA staff, and a BMX bike park and skate park engineers/designers to review the property. County Staff conferred with City Staff relative to the City's update of their Parks Master Plan. RMA has also been coordinating with City staff regarding sidewalks on County-owned lands along East Laurel Drive adjacent to this property (between Sanborn Road and Constitution Boulevard). The referral was closed on May 7, 2019 for staff to pursue efforts for a Shelter at 855 E. Laurel. RMA is preparing to bring a master planning effort for use of County lands, specifically lands at Natividad/Laurel in Salinas. This matter is reinstated for reconsideration. Public comment on this item was received on January 14, 2020. Item was pulled from the June 16, 2020, Board meeting agenda and is on hold pending identification of funding. Staff to consult with requesting Supervisor prior to resubmitting item to the Board.	Postponed					
4	2017.21	9/26/17 Aleio	Alejo	HCD/Econ. Dev.	Novo	12/12/17	Expand access to Accessory Dwelling Units (ADU) in Monterey County to address housing shortage in Monterey County.	An ordinance was adopted by the Board on September 15, 2020. Staff will be evaluating reduced fees for the Board's consideration through its annual landuse fee update, anticipated in April 2021.	Pending					
5	2018.15	81/2/9	Phillips./Alejo	HCD	Novo	7/17/18	Consider zoning changes to prohibit drilling for oil & gas north of King City	Present options for initiating amendments to County zoning to prohibit new oil and gas exploration in Monterey County except in the southern Salinas Valley, generally south of King City and east of the Santa Lucia range, so that it meets all legal requirements. RMA prepared options for consideration by the Planning Commission at a workshop held on 7/11/18. Referral postponed until Measure Z litigation is concluded.	Postponed					

Item #	Brd Rfl #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	ltem	Report	Status
6	2018.16	6/26/2018	Alejo	County Counsel/Auditor-Controller		Girard/Shan	8/28/2018	Update County Travel Policy by County Counsel in coordination with the Auditor- Controller's Office.	Monterey County's travel policy managed by the Auditor-Controller has not been updated in many years and today, it does not compare with current market prices or organizational procedures and may exceed legal requirements. The current policy creates barriers for county staff to be able to effectively represent county business at conferences, trainings or in litigation. This policy also conflicts with another travel policy found in the Personnel Policies and Practices Resolution (PPPR). This referral seeks to update the policies to account for inconsistencies, business needs, efficiency, market prices, whether government rates are available or whether the discounted lodging rooms were secured by conference organizers, such as the California State Association of Counties. This lack in clarity in the existing policy is costing unnecessary staff time and an update would modernize our policy with current standards. The new policy should meet Federal and State law while supporting business efficiency. A revised policy was presented to the Board on November 6, 2018. An updated memo was submitted to the Board. A revised policy will be presented to the Board in March 2021.	Pending
7	2018.28	12/4/2018	Phillips	НСD	M	00001	12/11/2018	Affordable Housing in the Coastal Zone	Amend County LCP to be consistent with the Coastal Act regarding affordable housing, authorize staff to investigate processes and provide language revision recommendations to the Local Coastal Plan. A presentation was provided to the Board on January 15, 2019. Staff will provide a memorandum to the Board in the near future.	Pending
8	2019.08	9/10/2019	Alejo	PWFP/IGLA		ISINI/CININIOS	12/10/2019	State Funding for the Historic Old Monterey County Jail	A presentation of options for the disposition of the Old Jail was provided on September 10, 2019. The Board identified specific options and authorized Supervisor Alejo to pursue state funding match (\$10M) in the 2020 budget, which will be determined by June 2020. Meanwhile, RMA has coordinated with City staff on their Lincoln Avenue Corridor Master Plan efforts that includes an option for potential reuse of the old jail site. Due to the pandemic the Legislature did not entertain specific budget requests, such as that for the Old Jail. This item is now on hold until the State Budget situation improves	Postponed
9	2019.11	10/8/2019	Adams	Health/Environmental Health/Co Cour		Jimenez/Kamirez/Striming	11/19/2019	Establish an Ordinance restricting the use of single-use plastics	Item continues to be postponed, as EHB staff met with environmental groups prior to the initial stay at home order. EHB also reached out to restaurant groups and reps, however none have participated as of this time. The draft has been undergoing editing with all the stakeholder ideas (which was very specific/prescriptive) in to a simpler version per the original Board referral. A draft will be provided to County Counsel for review and input. Outreach efforts will continue to be scheduled for input.	Postponed
10	2019.12	10/15/2019	Alejo & Adams	HCD	M	0000		Strengthen Monterey County's ordinance regarding archeological on-site monitoring requirements for development projects to better protect Native American and other cultural resources and provide increased daily fines for violations to better ensure compliance.	RMA anticipates providing a report to the Board on June 16, 2020, that seeks Board consideration of prioritizing resources for this referral. Staff provided a presentation to the Board on June 16, 2020. Per Board direction, County Counsel and RMA conferred on the preparation of an ordinance. The first reading of the ordinance was presented to the Board on July 7, 2020. The final adoption of the ordinance was taken before the Board on July 28, 2020 and was continued to August 18, 2020. The Board considered this item on September 15, 2020. Based on Board direction, staff will be revising the ordinance and returning to the Board at a later date.	Pending
11	2019.18	12/10/2019	Parker	Health	-	Jimenez/Burnnam	1/14/2020	Spay and Neuter Ordinance	Postponed to a later time due to pending and continued progress in increasing low cost neuter options in the community. Animal Services has begun a partnership with SNIP and has recently begun to offer free feral cats clinics for the public	Postponed

Item #	Brd Rfl #	Assignment Uate Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
12	2020.01	12/14/2019 Aleio	CAO		Woods	7/7/2020	Formula-E Racing at Laguna Seca Raceway	To research and initiate efforts to attract the first Formula-E racing event to the WeatherTech Laguna Seca Raceway, the only event of its kind on the West Coast. The latest innovation in auto racing is electric-battery operated racing vehicles. Formula-E racing is the world's first electric street racing series that was inaugurated in 2014 and is sanctioned by FIA or the Federacion Internationale de l'Automobile headquartered in Paris. Like Formula 1, Formula-E is a racing championship with single-seater, open cockpit vehicles, and can reach 62 mph in 2.8 seconds, similar as their gas-powered counterpart. But their maximum speed is about 174 mph as compared to the Formula 1 cars at 230 mph. Formula-E currently takes place in New York City, Mexico City, Berlin, Seoul, Jakarta, Rome, Santiago, Diriyah, Marrakesh, Sanya, Paris and London. Long Beach was the only prior site on the west coast to hold races in the 2014-15 and 2015-16 racing seasons. With our close proximity to the Silicon Valley and the San Francisco Bay area, Laguna Seca Raceway is ideally located to hold such a global event ad attract potential sponsors from the tech and electric-vehicle industry. It could also attract a new generation of fans from the tech sector. E-racing is the future of auto racing in the world and it also promotes cleaner and quieter vehicles/events. An event at Laguna Seca could also showcase the latest manufacturing of electric and hybrid racing and conventional vehicles from California and throughout the world. With the recent development of Stay in Place Order nationwide/worldwide the sport of racing had come to a sudden halt and interest in expansion of most racing series at new circuits was not an industry priority. Until racing, including e-formula resumes established circuit activities expansion is not a priority focus as priority focus will be on reestablishing the sport. Once racing has achieved a successful restart staff will begin exploration of new racing events, including but not limited to e-formula, timeline w	Pending
13	2020.06	1/28/2020 Parker	PWFP		Ishii	3/10/2020	Install speed limit signs on West Camp/Watkins Gate Roads	Staff conducted a community town hall meeting on traffic issues on November 18, 2020. There was quite an attendance and traffic questions were answered - proposed speed zones were also presented. Staff will finalize a board memorandum and will be bringing back Title 12 updates through ordinance for the Board in early 2021.	Pending
14	2020.09	Lopez	CAO		Chiulos	3/24/2020	Murals at the Government Center	Partner with the Arts Council of Monterey County to create murals on the walls of the stairways at the County Government Center located at 168 West Alisal. Staff will provide a Board report and presentation in late May 2021.	Pending
15	2020.12 2/2/2020	ams	CAO/PWFP		Vega/Ishii	7/2020	Consider funding options to increase the Pavement Condition Index of County roads to at least a "Fair" standard over the next ten years.	The referral seeks to establish funding for a program to increase the condition of our county roads over the next ten years that will reduce long term capital expenses. Staff has met to discuss options. Staff will need to access fiscal impacts from COVID-19 prior to responding to this referral. It is anticipated that staff will have the information needed by March 2021.	Pending
16	2020.18	Parker	Health		Jimenez	5/12/2020	Weekly report on progress to meet six State indicators for reopening	The referral requests a presentation to the Board and a weekly status report for the Board and Public that outlines actions being taken by the County to meet California's six indicators for modifying the stay-at-home order. The referral further requests a robust plan to communicate weekly status towards these six indicators via a digital dashboard that includes, at a minimum, the County staff/departments who are leading action on each indicator, outside agencies who share responsibility, metrics to measure our progress towards goals, and barriers and/or resources needed to make progress. Staff will provide weekly status updates as part of the COVID-19 updates provided during the Board of Supervisor meetings.	Ongoing
17	2020.22 77200.22	Phillips	CAO		Bokanovich	7/28/2020	Referral Process Amendment	This referral requests that the process be amended to have Board approval for a referral as part of an agenda item showing the purpose of the referral, costs, time, challenges, and details of the project. Exceptions may be made for urgent matters. Staff will provide a report to the Board in March 2020.	Pending

Item #	Brd Rfl #	Assignment Date	Referred By	Lead Dept. Sub-Depts.	Project Lead	Denijested Dije	Item	Report	Status
18	2020.25	9/15/2020	Alejo/Lopez	UTI	Chatham		Addressing Digital Divide in Salinas and Throughout Monterey County	This referral seeks to support collaborative efforts to address the digital divide in partnership with local school districts, cities, the County of Monterey, and community partners to address the digital divide for our local students and all other county residents, and to advocate for solutions at the state and federal level. The referral requests that the Board of Supervisors advocate at the Federal Communications Commission (FCC) so that broadband internet access is regulated once again as a utility that is necessary for all Californians' daily lives, and support legislation to reform existing state programs to expand internet access, generate needed revenue and make it easier for local governments to obtain funding to move local projects forward more expeditiously. The referral also requests that Monterey County formally request and sponsor legislation for a universal broadband bond to be place on the 2022 election ballot to generate the billions needed to address the digital divide in California once and for all. A county-wide community survey is also requested as soon as possible to engage local residents on their needs and concerns regarding the digital divide, online student distance learning, and access to affordable internet service. A report on the legislative advocacy portion of the referral was provide to the Board on November 17, 2020. Staff will provide a memorandum to the Board in March 2021.	Pending
19	2020.27	12/8/2020	Lopez-Alejo	COB	Ralph		Address the need for translation services	This referral seeks to support access to live translation services and translate recorded minutes of Board of Supervisor meetings. Staff anticipates providing a report to the Board in March 2021.	Pending
20	2020.28	12/8/2020	Lopez	Auditor-Controller	Shah		Local propositions to receive a financial analysis	This referral seeks to require an economic study be prepared that identifies the fiscal and economic impacts of the proposed ballot measure. Analyze and propose a policy that would require a draft economic report be prepared by the County Auditor-Controller and provide the County Auditor-Controller's assessment, relying on appropriate professional standards, regarding the changes in revenue and costs that may result from the proposed ballot measure, if such measure were ultimately approved. This referral seeks to create a consistent, apolitical, financial analysis of proposed changes and should consider all potential costs and fiscal impacts to the County and its economy. The referral requests a report to the Board in 3 months (March).	Pending
21	2021.01	1/12/2021	Alejo-Lopez	Health	Jimenez	1/06/001	Phase 1b Agriculture Workers Vaccination Plan	This referral seeks to devise a comprehensive plan, in collaboration with agriculture associations, employers, labor unions and healthcare professionals, for the successful vaccination of tens of thousands of agricultural workers in Monterey County. Staff continues to hold weekly coordination meetings with Ag and Union Leaders.	Pending
22	2021.03	2/9/2021	Alejo	CAO-WDB/County Counsel	Donnellv/Girard	3/0/0/1	Monterey County Hospitality and Travel Worker Right-to-Recall Ordinance	This referral seeks to establish an ordinance that would require employers to recall laid-off Monterey County hospitality, restaurant, and travel workers when our economy re-opens based on greatest length of service. Staff anticipates providing an initial presentation and report to the Board in mid-March 2021.	Pending

	Item # Brd Rfl #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	llem	Report	Status
24       Solution       Solut	<b>23</b> 701 702 700 700 700 700 700 700 700 700 700	2/23/2021	Alejo-Lopez	CAO		Malais <del>Woods</del> /Vega	3/9/2021		expenses of deceased Monterey County residents due to the COVID-19 pandemic. In December 2020, Congress approved \$2 billion for FEMA to offer financial assistance to "an individual or household to meet disaster-related funeral expenses" incurred through December 31, 2020. The program may cover up to 100% of expenses. This referral would request staff to make plans to implement a FEMA funeral and burial cost program for all eligible Monterey County residents. This referral also requests that staff assess options of creating a local program to partially assist low-income Monterey County residents with funeral and burial expenses incurred after December 31, 2020 that may not be covered under the FEMA program. Payments would be made directly to funeral homes. Staff is preparing	Pending
Completed by Executive Assistant on February 25, 2021	<b>24</b> 2007	3/2/2021	Alejo	PWFP		Ishii	6/1/2021		the Monterey County Government Campus at 168 West Alisal Street. The referral requests a presentation and report to the Board in three (3) months.	"NEW" Pending Approval on 3/02/21



# **Monterey County**

**Board Report** 

Legistar File Number: 21-179

Salinas, CA 93901 March 02, 2021

Item No.8

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor

Introduced: 2/23/2021 Version: 1 Current Status: Agenda Ready Matter Type: General Agenda Item

Recognize Monterey County employee Olga Guzman for her photo of two little girls outside a fast-food restaurant in East Salinas accessing the internet for their school classes.



# **Monterey County**

### **Board Report**

Legistar File Number: OBM 21-028

Salinas, CA 93901 March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor

Item No.9

Introduced: 2/19/2021

Version: 1

General Public Comments

Current Status: General Public Comments Matter Type: Other Board Matters



### **Monterey County**

**Board Report** 

Legistar File Number: 21-172

### Item No.10

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/23/2021

Version: 1

Current Status: Scheduled AM Matter Type: General Agenda Item

Public hearing to consider continuing the hearing to March 16, 2021 on an appeal by Rosana Rader and Michael Smith from the July 30, 2020 decision of the Zoning Administrator to approve a Design Approval for a fence ranging in height from four (4) to six (6) feet and to consider waiving the appeal fees.

[PLN190255 - SMITH & RADER (APN 177-061-003-000)]

#### **RECOMMENDATION:**

Staff recommends that the Board of Supervisors continue the hearing on this item to March 16, 2021.

#### PROJECT INFORMATION:

Property Owner: Smith, Michael A and Rader, Rosana
Parcel Size: 0.173 acre (7,536 sq. ft)
Zoning: HDR/5.1-HR-D" High Density Residential/5.1 acres per unit-Historic Resource-Design Control District

#### SUMMARY/DISCUSSION:

On November 5, 2020, the Board considered an appeal form the property owners (Michael Smith and Rosana Rader) of the Zoning Administrator's decision to approve a fence at their property in Spreckels subject to modifications to the fence. At the November 5, 2020 hearing, the Board of Supervisors continued the hearing on the matter to November 17, 2020, directing staff to explore how the County might reimburse the property owner for costs associated with building and/or rebuilding their fence. Information was not received in time to complete a staff report for the November 17th meeting, so the matter was continued to January 12, 2021. Due to unforeseen circumstances, information was still not available for the January 12, 2021 hearing and the matter was continued to February 2, and March 2, 2021. Once again, due to unforeseen circumstances and scheduling conflicts, staff and the applicants/appellants are requesting that this matter be continued. Staff recommends that the Board continue this item to March 16, 2021.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents involves processing of land use permits in accordance with all applicable policies and regulations.

Check the related Board of Supervisors Strategic Initiatives: Economic Development

<u>X</u>Administration

\_Health & Human Services

\_\_Infrastructure \_\_Public Safety

Prepared by:Liz Gonzales, HCD Permit Center Supervising PlannerReviewed by:Craig Spencer, HCD Planning Services ManagerApproved by:Erik Lundquist, HCD Chief of Planning

cc: Front Counter Copy; Elizabeth Gonzales, Supervising Planner, Craig Spencer, HCD Planning Services Manager; Erik Lundquist, Chief of HCD Planning, Michael Smith and Rosana Rader, Owners; Eddie Takashima, neighbor; Jim Riley, interested party; The Open Monterey Project (Molly Erickson); Land Watch (Executive Director); Project File PLN190255



# **Monterey County**

**Board Report** 

Legistar File Number: 21-172

Salinas, CA 93901 March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor

Item No.

Introduced: 2/23/2021

Version: 1

Current Status: Agenda Ready Matter Type: General Agenda Item

Public hearing to consider continuing the hearing to March 16, 2021 on an appeal by Rosana Rader and Michael Smith from the July 30, 2020 decision of the Zoning Administrator to approve a Design Approval for a fence ranging in height from four (4) to six (6) feet and to consider waiving the appeal fees.

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#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents involves processing of land use permits in accordance with all applicable policies and regulations.

Check the related Board of Supervisors Strategic Initiatives: \_\_\_Economic Development X Administration

Health & Human Services

Legistar File Number: 21-172

\_\_\_Infrastructure \_\_\_Public Safety

Prepared by:Liz Gonzales, HCD Permit Center Supervising PlannerReviewed by:Craig Spencer, HCD Planning Services ManagerApproved by:Erik Lundquist, HCD Chief of PlanningErik Lundquist, HCD Chief of PlanningEt

cc: Front Counter Copy; Elizabeth Gonzales, Supervising Planner, Craig Spencer, HCD Planning Services Manager; Erik Lundquist, Chief of HCD Planning, Michael Smith and Rosana Rader, Owners; Eddie Takashima, neighbor; Jim Riley, interested party; The Open Monterey Project (Molly Erickson); Land Watch (Executive Director); Project File PLN190255



### **Monterey County**

**Board Report** 

#### Legistar File Number: 21-162

Item No.11

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/19/2021

Version: 1

Current Status: Scheduled AM Matter Type: General Agenda Item

Receive the Monterey County Financial Forecast, which assesses the County's fiscal condition for the current year and three forecast years (FY 2021-22 through FY 2023-24).

#### **RECOMMENDATION:**

It is recommended that the Board of Supervisors receive the Monterey County Financial Forecast, which assesses the County's fiscal condition for the current year and three forecast years (FY 2021-22 through FY 2023-24).

#### SUMMARY/DISCUSSION:

The County's financial forecast is the first step of the annual budget development cycle. Staff conducts a comprehensive mid-year review of planned spending and anticipated revenues for the current year, budget year, and two additional out years. The result of this review is an assessment of the County's financial condition, emerging needs and the capacity to fund those needs as well as current levels of service and operations for the remainder of the fiscal year and beyond. Please see the attached Monterey County Financial Forecast for details. This report was presented to the Budget Committee during its February 24, 2021 meeting.

#### OTHER AGENCY INVOLVEMENT:

Development of this forecast is a cooperative effort between all departments and the County Administrative Office.

#### FINANCING:

There are no fiscal impacts related to receipt of this report.

Prepared by: Ezequiel Vega, County Budget Director, ext. 3078

Approved by: Dewayne Woods, Assistant County Administrative Officer, ext. 5309

Attachments: March 2021 Monterey County Financial Forecast



### **Monterey County**

**Board Report** 

Legistar File Number: 21-162

Item No.

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/19/2021

Version: 1

Current Status: Agenda Ready Matter Type: General Agenda Item

Receive the Monterey County Financial Forecast, which assesses the County's fiscal condition for the current year and three forecast years (FY 2021-22 through FY 2023-24).

#### **RECOMMENDATION:**

It is recommended that the Board of Supervisors receive the Monterey County Financial Forecast, which assesses the County's fiscal condition for the current year and three forecast years (FY 2021-22 through FY 2023-24).

#### SUMMARY/DISCUSSION:

The County's financial forecast is the first step of the annual budget development cycle. Staff conducts a comprehensive mid-year review of planned spending and anticipated revenues for the current year, budget year, and two additional out years. The result of this review is an assessment of the County's financial condition, emerging needs and the capacity to fund those needs as well as current levels of service and operations for the remainder of the fiscal year and beyond. Please see the attached Monterey County Financial Forecast for details. This report was presented to the Budget Committee during its February 24, 2021 meeting.

#### OTHER AGENCY INVOLVEMENT:

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FINANCING:

There are no fiscal impacts related to receipt of this report.

Prepared by: Ezequiel Vega, County Budget Director, ext. 3078



Approved by: Dewayne Woods, Assistant County Administrative Officer, ext. 5309

Attachments: March 2021 Monterey County Financial Forecast

### **Monterey County Financial Forecast**

March 2021

### Introduction

The County Administrative Office is pleased to present the financial forecast for the County of Monterey. The forecast is the first step of the annual budget development cycle, which concludes with the adoption of a balanced budget by July 1 of each year. To meet this timeline, staff conducts a comprehensive mid-year review of planned spending and anticipated revenues for the current fiscal year (FY 2020-21), budget year (FY 2021-22), and two additional years. The result of this review is an assessment of the County's financial condition, emerging needs, and expected fiscal capacity to meet those needs.

### Approach and Assumptions

The forecast is an analysis of estimated revenues and costs for <u>existing</u> levels of staffing and services within the context of current statutes and policies. A forecast is different than a budget. In forecasting, departments estimate "normal" cost of operations, which generally include the filling of vacancies and current level of discretionary spending. Developing a three-year forecast provides a window of opportunity to identify potential actions necessary to balance revenues and expenditures over the long-term to ensure financial sustainability of the County. Similarly, the forecast also serves as a tool for the upcoming budget to assess the impact that decisions made in the present, such as considering a new revenue source or the funding of a new program, will have on future fiscal balance.

The forecast includes employee salary and benefits changes as authorized under existing memorandums of understanding (MOUs) and scheduled employee step advances. The forecast also takes into consideration known increases in PERS retirement rates and health insurance premiums. Revenue estimates are based on the most recent financial data and available information about federal and State funding levels. The forecast compares expenditures required to carry out existing operations related to estimated financing sources. This analysis is a key financial management tool to guide the upcoming budget process and help preserve long-term financial stability.

### General Fund Results Prior Fiscal Year

The general fund supports core governmental functions related to public safety, land use and environment, public assistance, health and sanitation, recreation and education, and finance and administration. The FY 2019-20 adopted budget included \$687.5 million in appropriations, matched by an equivalent amount of financing. Throughout the year, subsequent modifications increased appropriations by \$24.9 million, financed by additional revenue and fund balance for one-time expenditures. The County ended the fiscal year with a favorable performance compared to the final budget.

Through the Board's leadership, and departments' responsible financial oversight, the general fund ended the prior year with a preliminary operating surplus of \$1.5 million (since FY 2019-20 CAFR was not available as of the date of this publication, final results are preliminary until the CAFR is

published). The Board judiciously invested this surplus by adding \$0.5 million to the Strategic Reserve which resulted in meeting the Board's policy of 10% of estimated general fund revenue. While the prior year ended in a surplus, the unassigned fund balance includes \$0.6 million that was obligated in the FY 2020-21 adopted budget to fund one-time expenditures. Therefore, only \$0.4 million of the unassigned fund balance is truly available in the current year. Also, an additional \$5.7 million was added towards the cannabis assignment in FY 2019-20. Investments in the County's reserves are a strong indicator of the County's commitment to weathering future unforeseen events and meet emerging needs.

	FY	2019-20			FY	2020-21			FY	2021-22	F	Y 2022-23	FY	2023-24
	A	Actual	A	dopted	Μ	lodified	-	ar-End stimate				Forecast		
Financing Sources:														
Beg. Unassigned Fund Balance	\$	2.4	\$	0.6	\$	0.6	\$	0.6	\$	-	\$	-	\$	-
Cancellation of Restricted Fund Balance		5.5		5.3		5.3		5.3		-		-		-
Cancellation of Assignments		12.9		40.3		48.9		49.0		-		-		-
Cancellation of Strategic Reserve		-		-		-		-		-		-		-
Revenues		647.2		669.8		679.8		663.5		662.1		670.2		681.5
Total Financing Sources	\$	667.9	\$	716.0	\$	734.6	\$	718.4	\$	662.1	\$	670.2	\$	681.5
Financing Uses:														
Restricted Fund Balance	\$	6.9	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
Assignments		19.3		-		-		-		-		-		-
Strategic Reserve		0.5		-		-		-		-		-		-
Expenditures		640.2		716.0		734.6		718.0		702.9		713.8		727.1
Adjustment - Est Salary Savings		-		-		-		-		-		-		-
Total Financing Uses	\$	666.9	\$	716.0	\$	734.6	\$	718.0	\$	702.9	\$	713.8	\$	727.1
Ending unassigned fund balance	\$	1.0	\$	-	\$	0.0	\$	0.8	\$	(40.7)	\$	(43.6)	\$	(45.6)

#### General Fund Outlook through 2023-24

### Current Fiscal Year Estimated Results

Positive results are expected in the current Fiscal Year in the middle of unprecedented economic constraints<sup>1</sup>. The Board's vision and support along with responsible stewardship of County departments is evident in the current year, with the County forecasting a balanced budget for FY 2020-21. This positive result could not have been achieved without the utilization of assignments and CARES revenues to respond to the pandemic; and continuous management of operational budgets by Departments. Estimated expenditures and revenues for the current year (as estimated by Departments) are respectively \$16.6 million and \$16.3 million below budget. The decrease in expenditures is primarily due to salary savings for vacant positions. To the extent departments do not fill positions this also decreases reimbursement-based revenues from federal and State agencies. The forecast assumes no funds will be transferred to assignments, however, at year-end, programs that have revenues that are restricted and exceed expenditures for the program will typically transfer funds to assignments.

**PERS rate increases continue to drive deficits in Departmental forecasts.** Department forecasts generally assume vacancies are filled, resulting in increased salary and benefit costs projections. However, a comparison of budgeted versus actual salary costs illustrates that savings consistently

<sup>&</sup>lt;sup>1</sup> These results do not include estimated \$12.7 million in CARES revenues corresponding to FY 2019-20 which could be accrued to FY 2020-21; this revenue is not included as the CAFR for FY 2019-20 is not available as of the date of this publication.

occur due to attrition and turnover. As such, the County Administrative Office (CAO) again added a salary savings adjustment that lowers overall projected expenditures by \$12.1 million to \$12.4 million annually by the end of the forecast period. After making the salary adjustment, the forecast reveals a forecasted deficit of \$28.6 million next fiscal year, growing to \$33.2 million by FY 2023-24. This forecast assumes no wage increases, so if increases were approved by the Board; the total projected deficit would grow. A significant factor impacting the deficits are higher contribution rates going towards paying down CalPERS' large unfunded pension liabilities and continued increases in the County's general liability insurance program and Worker's Compensation. Even with a salary adjustment, County staff are conservative when estimating revenues and expenditures with actual performance generally favorable compared to forecasts. These hypothetical deficits are based on current operations and policy and do not include future service enhancements, wage increases for expiring labor agreements after FY 2020-21, changes in federal or State financial commitments, or revenue declines in an economic downturn.

**Current year discretionary revenue grows mostly due to property taxes revenue and one-time CARES revenue, but other revenues decrease.** Discretionary revenue is vital as it helps general fund departments cover costs increases and prevent service impacts. Discretionary revenues grow in the current year by \$13.7 million over the modified budget; with most of the growth coming from property taxes \$0.7 million and CARES revenue \$28.1<sup>2</sup> million. Conversely, sales tax (\$1.2 million) and transient occupancy tax (\$4.1 million) are estimated to decrease from the modified budget as result the pandemic's impact on the economy. As previously mentioned, the forecast does not estimate any cannabis revenue will be added to the cannabis assignment as all current estimated revenue of \$15.4 million was allocated to departments as discretionary revenue during the FY 2020-21 budget cycle. However, if cannabis revenue is higher than the \$15.4 million estimate, the cannabis assignment could see growth. It is worth noting, without the receipt of the CARES revenue the County would have ended the year at deficit and would have needed to make reductions to services.

In addition to these revenue impacts, the County also faces potential budget gaps in several departments as result of impacts from the pandemic. Detailed information about these impacts will be presented to the Board of Supervisors (Board) during their February 9 meeting. The results of those impacts and subsequent Board direction are not included in the forecast.

Next year, the County will face the impact of major cost drivers exceeding available funding. This is true even with \$15.4 million in cannabis revenues included as part of preliminary general fund contributions (GFC). As of the writing of this report there remained a \$6.6 million gap needed for COWCAP and general liability increases.

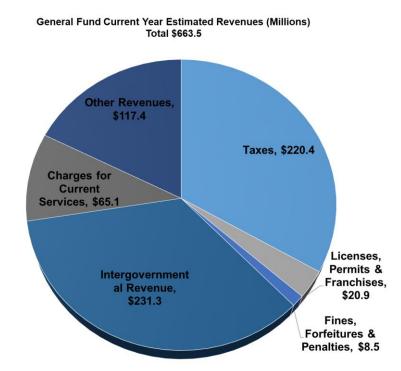
A cautious approach to future financial decisions given uncertainty of revenues. Looking into the future, the County, like the State and other local governments, must continue to plan for a stable and sustainable future for coming generations by maintaining its Strategic Reserve, addressing infrastructure needs, and paying down unfunded liabilities. The financial forecast assumes that the economy continues to grow through the forecast period and does not include potential impacts that may result from possible federal or State policy changes or impacts of a recession or current year discretionary revenue declines.

<sup>&</sup>lt;sup>2</sup> This amount does not include an estimated \$12.7 million in CARES revenue related to FY 2019-20 activity since the FY 2019-20 CAFR is not available as of the date of this publication.

While some growth is assumed in forecasted years, it is not enough to cover increases in costs for current levels of staffing and services. Furthermore, planning for service delivery in unprecedented times created by the global pandemic continues to be an issue of concern for the State as well as local governments considering the U.S. has seen the largest number of infections in the world. Any new budget commitments will increase the severity of cuts the County would have to make in an economic downturn. Given these uncertainties and events, continued prudent financial management practices, including limiting new on-going commitments or expansion of programs, seems appropriate for the current environment.

### General Fund Revenues

General fund revenue composed is of program and nonprogram revenue. Program revenue is specifically designated and/or statutorily required for programs. Sources of program revenue are derived from State and federal aid for various mandated programs primarily in Health and Social Services, charges for services primarily are fees collected by health clinics other and revenues include



primarily reimbursement from realignment funds for health, social services, and public safety programs.

Non-program or "discretionary" revenues are mostly derived from taxes and are utilized to address local priorities and to provide funds to leverage federal and State monies, including maintenance of effort requirements.

**Current year revenues are \$16.3 million below budget expectations.** The major causes of the decrease in revenue in the current year include:

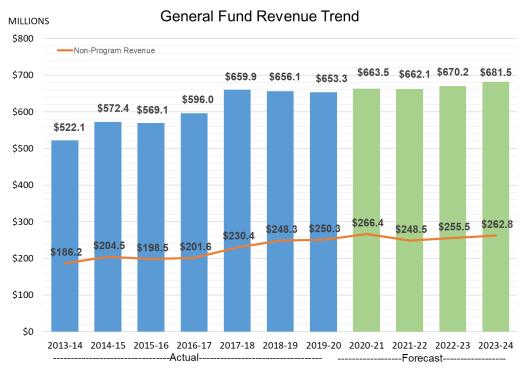
- **Revenue in the Health Department is \$11.5 million below budget:** The Health Department is estimating a decrease in health fees and lowered reimbursements due to a lower than anticipated level of service due to vacancies in revenue generating operations and redirection of staff to the pandemic's response.
- **Revenue in Social Services is \$14.5 million below budget.** Social Services is estimating revenue below budget due to revenue generating activities being lower than budget and redirection of staff to respond to the pandemic. Examples of these activities include CalWORKS entitlement

payments due to caseload decline (\$1.0 million), lower maintenance of Effort (MOE) in Home Supportive Services (\$600,000), and a decrease in Out of Home due to a smaller foster care caseload and emergency placement costs (\$2.9 million).

• Elimination of Produce Inspection reduces reimbursements in Agriculture Commissioner. In November 2019, the Board of Supervisors adopted an ordinance repealing Chapter 10.16 of the Monterey County Code, thereby eliminating the Produce Inspection program. As such, the department is anticipating a loss of \$0.7 million in reimbursements with a corresponding reduction in expenses.

Overall reductions in revenue are offset by a \$14.2 million increase in other revenue sources, mostly due to the receipt of federal funding to aid the County on the response to the pandemic. The graph below illustrates the general fund revenue trend based on actual performance and forecasted amounts.

**Forecasted years assume modest growth in revenues**. Departments balance their budgeted expenditures based on a combination of revenues earned directly by the program (State reimbursement, permit fees, clinic charges, etc.) and County contributions of discretionary "non-program" revenue.



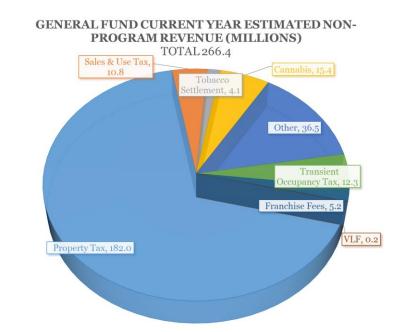
Since FY 2013-14 the County's program revenues have mostly grown under state-county realignment and the Affordable Care Act to support increased responsibilities and associated costs, including mandated public assistance and health and public safety programs. For FY 2021-22, general fund revenues decline \$1.4 million, 0.2% under current year expectations. The decrease is mostly attributed to one-time CARES revenue received in FY 2020-21. Adjusting for this one-time revenue, General Fund revenue increases in the forecast years due to State and federal reimbursements, and an increase in non-program revenue, specifically modest growth in property taxes. The chart above reflects the overall general fund revenue trend and the non-program revenue trend, which accounts for approximately one-third of general fund revenues.

### **Discretionary Revenues**

Discretionary revenues provide the Board flexibility to address local priorities and to provide matching funds to leverage federal and State monies and to meet maintenance of effort requirements.

**Property tax revenue** account for majority of local discretionary monies. Sources of non-program revenue are displayed in the chart to the right. Total nonprogram revenue in the current year is estimated at \$266.4 million.

Property tax revenue is the largest source of nonprogram revenue, projected at \$182 million (68%) of total current year estimated nonprogram revenue. Other significant sources of discretionary revenue



include: \$36.5 million other revenue (including the General Fund portion of CARES revenue); \$12.3 million in TOT; \$15.4 million in Cannabis revenue; \$10.8 million in sales and use tax revenue; franchise fees of \$5.2 million and tobacco settlement monies of \$4.1 million.

**Discretionary** revenue continues to grow in coming **vears.** The chart to the right reflects the projected nonprogram revenue in the year, upcoming current budget year (FY 2021-22) and two out years. Projected current year non-program revenue is above budget mostly due to the recognition of an additional \$28.1 million in CARES revenue. The forecast assumes modest continued growth in nonprogram revenue (after excluding the one-time CARES revenue received in FY 2020-21) primarily due to

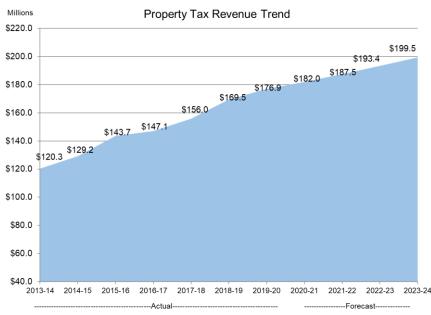


positive trends in property tax collections resulting from higher assessments. Next fiscal year, nonprogram revenue grows \$10.1 million over the current year end estimate. However, even with the \$10.1 million increase; revenue is projected to contract by \$4 million in FY 2021-22 compared to the current year budget. Year over year growth in the two out years is projected at approximately \$7 million and \$7.3 million respectively.

**Increases in property assessments result in modest discretionary revenue growth**. While the forecast assumes moderate growth in property tax assessment, the impact of a recession on property tax revenue should be noted. During the economic recession beginning FY 2008-09, property taxes sustained steep reductions, declining \$15.6 million from peak to trough. This impacted County services and was the driving factor behind four years of budget reductions following the onset of the recession. Assessed values have steadily recovered and since exceeded pre-recession levels.

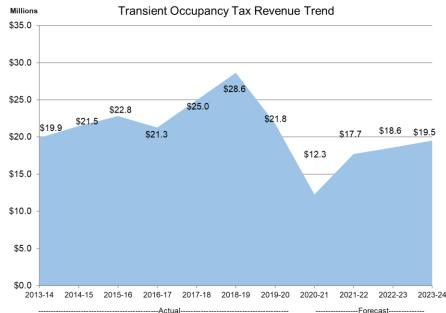
As seen on the chart, property taxes continue to grow but the rate of growth has declined. Next year,

the forecast assumes a lower growth in assessments, currently projected at 3.3% which produces \$5.5 million growth in property tax revenue. The two out years include a similar conservative growth assumption of 3.5% each, yielding additional revenue of \$5.9 and \$6.1 million each year. However, it is important to note that the pandemic may have long term effects in the economy which could be reflected in the out years, so this revenue should be carefully monitored for any potential impacts from changing economic conditions in the County.



Transient Occupancy Tax trend of positive results impacted by the pandemic. TOT is the

County's second largest source of discretionary revenue. Often \$35.0 referred to as the "hotel tax," TOT is the tax applied on \$30.0 hotel/motel accommodations. Various tourist attractions contribute to the County's TOT, including the County's Laguna \$20.0 Seca Recreation Area (LSRA). The tax rate for Monterey County is 10.5%. Last fiscal year, TOT revenues decreased \$6.8 million over the prior year. FY 2018-19 included revenue attributable to the U.S. Open, a one-time event, as well as continued efforts by the

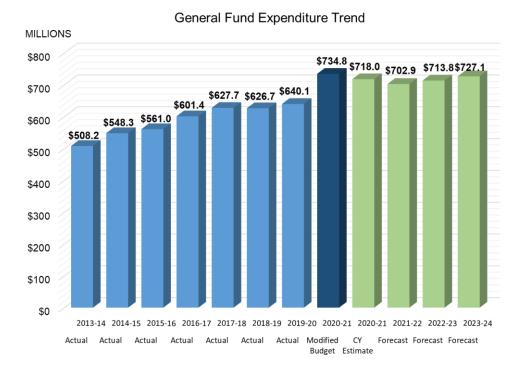


Treasurer-Tax Collector in recuperating one-time collections for non-complaint Short Term Rental operators. FY 2019-20 revenue was affected by the pandemic and corresponding stay at home orders. The current year estimate conservatively assumes collections of \$12.3 million as the pandemic continues to affect the economy with the hospitality industry being affected particularly hard. As of the writing of this report, current year data shows revenue collected for half a year is on track to meet the \$12.3 million estimate. This is almost half of what the County would collect on a typical year. This same revenue source is projected to grow slowly next FY and the forecast years as the economy begins to recover from the impacts of the pandemic.

**Cannabis revenues to support on-going cannabis program and reduce financing needs in upcoming budget process.** The adopted budget included \$5.5 million in cannabis revenues to support 26.48 FTEs for the implementation of the County's Cannabis Program and \$9.9 million as discretionary revenue supporting all County departments. Services and equipment in various County departments were also funded to carry out the program. In addition, as of the writing of this report, the Board authorized \$18.3 million dollars to fund one-time expenses in the current fiscal year from the cannabis assignment. In total, 26.48 positions have been added towards the County's cannabis program. Cannabis revenues are estimated conservatively to remain flat into next fiscal year and the forecast years at \$15.4 million.

### General Fund Expenditures

The FY 2020-21 adopted budget included appropriations of \$715.9 million. The modified budget is \$734.8 million. Some of the changes include modifications of \$18.6 million to the Office of Emergency Services budget to address the Emergency Operations Center costs to respond to the pandemic. Some of that increase was funded by the cannabis assignment and some was funded by CARES revenue. In addition, a modification of \$3.4 million occurred in the Sheriff's Office funded by CARES revenue for the departmental response to the pandemic.



**Current year expenditures are estimated at \$718 million, or \$16.6 million below budgeted expenditures.** The primary factor decreasing expenditures in the current year is salary and benefit savings of \$22.1 million resulting from vacancies across the County. At the writing of this report, the County had an overall 11% vacancy rate in the general fund. There are an estimated 372 vacancies in the general fund, with an estimated annualized value of \$48 million next fiscal year. Of these vacancies, approximately 54% reside within two departments: Health and Social Services. To the extent these departments fill vacant positions, it is likely they would qualify for some level of reimbursements from State and federal agencies. However, vacancies in these departments do not translate into County savings to the extent departments cannot seek reimbursement from State and federal agencies for costs not incurred. The same holds true for departments with grant-funded vacancies or departments that share cost with other payors.

For next year's forecast, departments generally assume that all vacancies are filled and at top step. This conservative estimate illustrates potential increases in expenditure levels; however, expenditures are curtailed to available funding. As responsible fiscal managers, Departments make operational changes if funding levels are constrained, including delaying hiring of vacant positions. An adjustment for salary savings is made in the forecast years. This adjustment is discussed later in the report.

**One-time and on-going expenditures in the current year are financed with fund balance.** The FY 2020-21 adopted budget included \$46.2 million use of fund balance to cover one-time and ongoing expenditures. These uses of fund balance includes \$26 million for two programs including building depreciation and the vehicle replacement program that moved from the General Fund to the Resource Planning fund. The first transfer is to the Building Improvement and Replacement (BIR) subfund; reserving \$15.5 million for the COWCAP amounts designated for this program. The second transfer in the amount of \$10.5 million accounts for the Vehicle Replacement Program (VRP) funds which were initially accounted for in the general fund and are being transferred to the VRP subfund. Other fund balance uses inlcude \$4.5 million in cannabis assignment to cover one time priorities funded by the Board during budget adoption, and \$7.1 million from the general capital assignment to cover general fund depreciation expense associated with the COWCAP.

While one-time expenditures go away in the upcoming year, salary increases related to the Board approved bargaining agreements for FY 2019-20 and FY 2020-21 and other major cost drivers such as pension contributions, healthcare costs, general liability, and workers' compensation consume next year's expected gain in discretionary revenue. Major cost drivers are discussed in detail in the following section.

### Major Cost Drivers

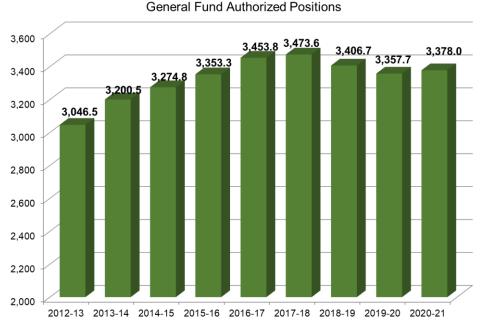
County programs and services continue to be impacted by higher labor costs resulting from negotiated salary increases, increased employer pension contributions, increased healthcare costs, higher workers' compensation and general liability costs.

**Prior and current fiscal year wage increases add to salary cost.** In September 2019, the Board of Supervisors approved wage increases for FY 2019-20 and FY 2020-21. The Board approved wage increases for most labor groups of 2.0% in the prior year and 3.0% in FY 2020-21. Most safety bargaining units received increases of 2.0% in the FY 2019-20 and 3.0% in FY 2020-21. Independent of position growth, wage increases approved for the two fiscal years had and estimated impact of \$12.5 million in cost to the general fund. The forecast does not account for any potential wage

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increases in FY 2021-22 as most labor contracts expire by the end FY 2020-21 and no new agreement is in place. If wage increases were to occur for FY 2021-22, the County's general fund could face additional unfunded expenditures.

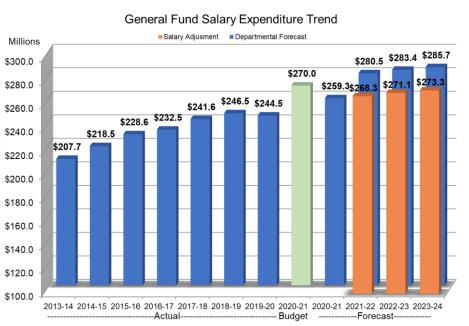
Along with increases in staffing levels, salary increases continue to constrain department's budgetary flexibility. Between FY 2012-13 and FY 2017-18, general fund positions



increased year-over-year, with a total of 427.1 general fund positions added. However, FY 2018-19 was the first-year general fund positions experienced an overall drop with additional reduction in position level in FY 2019-20; but positions grew again in FY 2020-21.

Departments estimate salary expenditures increase \$14.8 million, from \$244.5 million in the prior year to \$259.3 million in the current year. As mentioned earlier in the report, departments generally forecast all vacancies are

filled and at top step. Departments manage their budgets to anticipated funding levels, and thereby make changes to their operations – including delaying hiring. Additionally, savings in salaries have consistently occurred due to attrition and turnover. As such, the forecast added a salary savings adjustment to more closely illustrate prior years' experience in salary expenditures. Taking the salary adjustment into consideration. salary

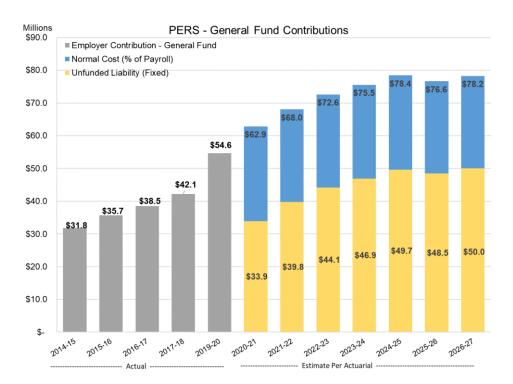


expenditures increase to \$273.3 million by FY 2023-24. The forecast does not include future wage increases for labor agreements beyond FY 2020-21 as labor agreements are set to expire by the end of that fiscal year.

**Employer contributions continue to see increases due to changes in CalPERS' actuarial methodology.** The County continues to see its contributions towards employee pensions increase. Driving the increases are changes to CalPERS' actuarial methodology, including the following actions:

- Changes in amortization and rate smoothing policies to accelerate paying down large unfunded liabilities.
- Change to fixed dollar contribution for the unfunded liability portion, rather than as a percentage of payroll, to prevent potential funding issues that could arise from a declining payroll.
- Adoption of new demographic assumptions that show retirees living longer, and thus requiring higher lifetime payout of benefits.
- Approval of a new funding risk mitigation policy to incrementally lower the discount rate.

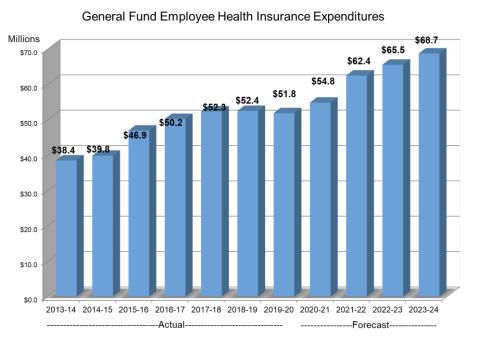
Projected results assume no plan changes, no changes in assumptions, and no liability gains or losses. Additionally, projected results are based on investment returns not falling below the assumed rate of return, which will increase contributions. Any changes to those elements will have a direct impact on required contributions.



General fund contributions increase sharply in the forecast years with an increase of \$5.1 million next fiscal year bringing the total contribution to \$68 million, more than double the FY 2014-15, and grow \$15.3 million by FY 2026-27. The most significant change impacting contributions is the reduction in the "Discount Rate," which reduced the assumed rate of return by CalPERS from 7.50% to 7.0% over three years, beginning with the June 30, 2016 valuation. The result has been a continued increase in agencies contribution levels. The change was made by CalPERS due to expectations of lower investment returns. While a lower discount rate helps the CALPERS reduce the risk of funding issues and cash flow gaps, the impact to the County is a larger share of revenues being consumed to pay for contribution increases. The contributions for FY 2020-21 are based on a 7.0% discount rate. The

projections in the chart above are based on CalPERS actuarial valuations, which are built on actual payroll data obtained by CalPERS, and therefore, based on existing levels of filled staffing. The County's current unfunded liabilities of \$762.5 million represents more than next year's forecasted general fund budget.

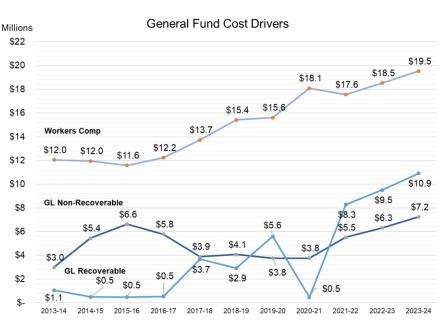
Increases in health insurance premiums continue to add to Countywide fiscal pressures. Health care costs have grown \$13.4 million since FY 2013-14 are forecasted to and increase another \$16.9 million over the next four fiscal years. In the current year, health costs are estimated at \$54.8 million, or \$3 million over last fiscal year. The Human Resources Department is anticipating a 6.0% annual growth for FY 2021-22 and the remainder of the



forecast period based on historical experience, resulting in a \$7.6 million increase in FY 2021-22 assuming all positions are filled. Additionally, the forecast projects a \$3.1 and \$3.2 million increase in FY 2022-23 and FY 2023-24 respectively. In addition to rate increases, the liability for retiree health expenses continues to be a concern as is currently estimated at \$33.6 million.

Sharp increases in costs to run internal service fund programs. The workers' compensation

continues program its trend of increasing projected allocated costs. FY 2020-21 costs are estimated at \$18.1 million and project а small decrease to \$17.6 million before continuing to grow to \$19.5 in FY 2023-24. This type of growth represents a \$7.5 million increase from FY 2013-14 costs. The general liability (GL) program's allocated costs to departments also continue to increase as shown in the forecast. Costs for this program



were \$4.1 million in FY 2013-14 but are estimated to grow to \$18.2 million by FY 2023-24. That represents growth of 448% in ten years.

The chart to the right, shows recoverable general liability costs decreasing in FY 2020-21. That decrease is a result of the suspension of the charges of GL recoverable costs to general fund departments due to budgetary constraints. If costs for that period were included, GL costs would have increased to \$9 million, instead of the half million shown in the chart.

### **Funding Commitments**

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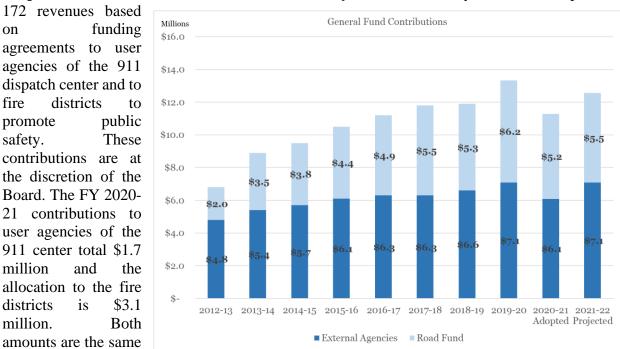
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is

In addition to operational cost drivers, County policy provides for funding towards external agencies and to the Road Fund. Funding agreements are based on percentage formulas, which have generally resulted in increased annual contributions in recent years. These commitments total \$11.2 million in FY 2020-21 and result from the following:

Funding to external agencies in support of their mission to economic development. County policy provides funding for agencies that promote economic development, tourism and cultural arts. Contributions to these endeavors has varied over time as the County's contribution adapts to the economic conditions facing the community. For example, during FY's 2016-17 and 2017-18, contribution amounts were capped at FY 2015-16 levels, or \$1.9 million, due to fiscal constraints. In FY 2018-19, contributions returned to formula based; however, in FY 2019-20 contributions were again capped and include \$2.1 million from TOT and in FY 2020-21 the contribution was budgeted on a formula driven approach amount but with a cap reflecting the anticipated decline of TOT revenue. Accordingly, the amount included in the FY 2020-21 budget for this purpose is \$1.2 million. Next year, contributions are estimated at the same contribution percentages as indicated in the financial policies to keep consistency of forecasting assumptions throughout the forecast. However, when the recommended budget is prepared the Board will decide in these distribution percentages for this funding continues or not based on current economic conditions.



Proposition 172 revenues (Half-Cent Public Safety Tax). The County distributes Proposition 172 revenues based

as those amounts contributed the prior year as the Board of Supervisors directed to keep the amount fixed due budgetary constraints. Next year, contributions are estimated at \$3.3 million for fire districts and \$1.8 million for user agencies.

• In FY 2013-14, the Board adopted a policy to contribute a percentage of TOT revenue to the Road Fund, recognizing that well maintained roads are vital to the local economy. In FY 2019-20, the Board approved adjusting the contribution to the Road Fund at a level necessary to meet maintenance of effort (MOE) with the difference directed to Board approved road projects. In FY 2020-21 the amount was kept at the minimum MOE required. Based on current formulas, next fiscal year, the estimated contribution to the Road Fund to meet MOE is \$5.5 million.

# Emerging Countywide Needs

The following table summarizes emerging needs including departmental cost pressures that will require budget solutions beginning in the current year and next fiscal year. The known costs total \$20.9 million in the current year and \$7.3 million in the general fund next fiscal year.

Emerging Needs		FY 2020-21		021-22
Worker's Compensation, GL Increase			\$	7,332,483
Decrease in Progranm Revenue	\$	1,814,000		
PERS Contribution Increase				
Pandemic Response Costs	\$	19,171,000	TBD	
Total	\$	20,985,000	\$	7,332,483

*Worker's Compensation and General Liability.* Preliminary GFC contributions include and adjustment to account for the GL and WC projected increases in the new fiscal year, but non program revenue increases are not enough to cover all the increase in costs. The combined costs increase for all two cost drivers is \$7.3 million.

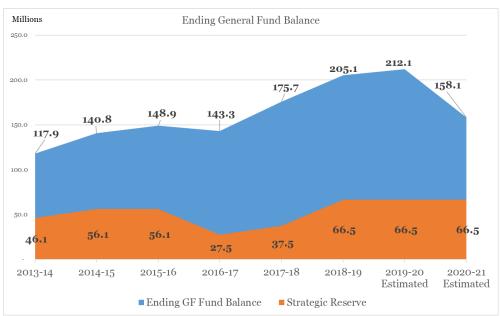
*Pandemic Impacts*. The pandemic has had a significant impact in program revenue for multiple departments. The figure in the table above reflects the program revenue reduction resulting from the pandemic in the former RMA department. This revenue reduction impact was presented to the budget committee and the Board of Supervisors. After the presentation of this need, the Board approved one-time revenue to cover the gap in FY 2020-21, but FY 2021-22 could see a similar gap in funding in the economy does not recover next fiscal year.

*Pandemic Response*. Impact to County operations will likely continue into FY 2021-22. Specific impacts will be estimated during the budget preparation cycle, but if impacts are like FY 2020-21; the County could face significant economic impacts. As such, the evolution of the pandemic will continue to be monitored so that early action could be taken once specific impacts are identified.

# Financial Reserves

Since the recession, the Board has strengthened financial policies to restore balance between ongoing revenues and expenditures, ending the practice of using one-time gains in fund balance to finance ongoing operations. Historically, the County has invested year-end surpluses and one-time gains in its strategic reserve and other key investments, resulting in improvement to the County's ending fund balance each year.

FY The 2020-21 adopted budget includes \$54 million of fund in use balance including funds authorized from restricted fund balance and other assignments. Based on the planned fund balance use, the estimated general fund balance at year-2020-21 end is \$158.1 million. It is worth nothing that at the time this report



was written, the Comprehensive Audited Financial Statements (CAFR) was not available; therefore, fund balance figures for FY 2019-20 are estimated.

The County has previously built up the general fund strategic reserve to \$56.1 million by FY 2015-16. Because of these prior investments and prudent financial planning, the County has been able to respond to natural disasters and extraordinary legal costs during FY 2016-17 by redirecting \$30.9 million towards these unforeseen costs. Because of favorable results in the last four years, the County was able to invest reaching 10% of estimated annual general fund meeting the Board' strategic reserve policy ceiling.

As illustrated in the above graph, unforeseen costs can easily reduce reserve levels. Without the prior investments, the County may not have been able to respond to the magnitude of costs due to unforeseen events or the recession during FY 2008-09. As of the writing of this report, the Board was considering potential use the strategic reserve to mitigate some of the impacts resulting from the pandemic to its FY 2020-21 budget. For this reason, it is important to continue to preserve the County's finances, and align expenditures to available ongoing revenues, to be better prepared for future events including an economic downturn.

# General Fund Departmental Forecasts

This section provides individual departmental forecasts, which compare forecasted needs (i.e., expenditures) based on current staffing and services to available financing. Available financing refers to a department's estimated program revenue plus authorized general fund contributions adopted by the Board. The resulting forecast summaries help identify potential areas where service capacity may be impacted as a result of projected changes in expenditures and revenues. Departmental summaries offer a tool to assist the Board of Supervisors in prioritizing the distribution of discretionary general fund contributions in the upcoming budget process.

Per County policy, Departments forecasting current year deficits are required to prepare and submit a Budget Committee report outlining the cause of the problem, the alternatives available to mitigate the projected deficit, and the Department's recommended action. In the current year, Departments estimating a deficit include: Health, Probation, former RMA Department, Social Services, Treasurer Tax Collector, and the Sheriff's Office. It is worth noting that if CARES revenues are accounted, deficits in most departments would be eliminated.

### General Fund Contributions

Departments are provided preliminary estimates of general fund contributions for purposes of building their initial "baseline" budgets. The initial GFC estimates represent preliminary allocations of discretionary general fund monies to be used for planning purposes. Departments use these monies to supplement program-specific revenues to finance operations.

Preliminary GFC planning estimates for the budget year and forecast years were based on current year GFC allocations with the following adjustments:

- Worker's Compensation & General Liability Increase Adjustments ongoing cannabis revenue continues to be combined with discretionary revenue up to the \$15.4 million limit approved by the Board during the FY 2020-21 budget.
- Cost Plan Adjustment preliminary GFC planning estimates did not include an adjustment to departments GFC for anticipated cost plan charges or credits. Since the preliminary GFC estimates were distributed, the Auditor-Controller's Office has published updated countywide cost plan allocation (COWCAP) amounts to be applied next fiscal year. An updated GFC estimate was distributed to departments to include an adjustment for COWCAP. Per the Board's prior direction, updated GFC estimates redistributed preliminary GFC allocations across general fund departments to make the updated COWCAP a budget-neutral event (to the extent of available resources) and minimize the COWCAP's impact to general fund departments.
- Since discretionary revenues were not enough to cover all cost increases a reduction of \$6.6 million was made to the Departments GFC allocations.

### Departmental Forecasts

Departmental forecasts assume general fund contribution (GFC) is static in fiscal years 2022-23 and 2023-24. As such, the upcoming budget year 2021-22 includes preliminary GFC figures as approved by the Board for adopted levels of staffing and services and assumes growth in discretionary revenue is distributed using the same priorities in the forecast years.

Agriculture Commissioner	Modified Budget	Year-End Estimate	Forecast		
Agriculture Commissioner	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$10,760,100	\$10,760,100	\$11,566,427	\$11,922,430	\$12,199,964
B. COWCAP	1,117,424	1,117,424	1,117,424	1,117,424	1,117,424
C. Total Expenditures	11,877,524	11,877,524	12,683,851	13,039,854	13,317,388
D. Revenue	7,801,848	7,871,848	7,577,957	7,362,779	7,362,779
E. Financing Need, C-D	4,075,676	4,005,676	5,105,894	5,677,075	5,954,609
F. Preliminary GFC	4,075,676	4,075,676	4,190,430	4,190,430	4,190,430
G. Surplus/(Deficit), F-E	\$-	\$ 70,000	\$ (915,464)	\$ (1,486,645)	\$ (1,764,179)

**Agricultural Commissioner** – The Agricultural Commissioner's Office expects to end the current year with \$11.9 million in expenditures, \$7.9 million in revenues, and a general fund contribution of \$4.0 million resulting in a year-end surplus of \$70,000. The surplus is primarily due to an increase in fines. In the forecast years, the projected expenses increase due to increased salary and benefit costs, loss of the Produce Inspection Program's portion of overhead costs reimbursement, and an increase in non-recoverable liability insurance. Additionally, revenues decrease in the forecast years due to the end of a three-year deferred gas tax payment which will conclude in FY 2020-21 and the elimination of the Produce Inspection Program.

Auditor-Controller	Modified Budget	Year-End Estimate	Forecast		
Additor-Controller	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$ 6,846,214	\$ 6,633,643	\$ 7,111,900	\$ 7,334,915	\$ 7,462,590
B. COWCAP	(5,935,635)	(5,935,635)	(5,935,635)	(5,935,635)	(5,935,635)
C. Total Expenditures	910,579	698,008	1,176,265	1,399,280	1,526,955
D. Revenue	517,754	516,912	514,653	514,653	514,653
E. Financing Need, C-D	392,825	181,096	661,612	884,627	1,012,302
F. Preliminary GFC	392,825	392,825	399,188	399,188	399,188
G. Surplus/(Deficit), F-E	\$-	\$ 211,729	\$ (262,424)	\$ (485,439)	\$ (613,114)

**Auditor-Controller** – The table summarizes the finances for departmental operations. The Auditor-Controller estimates ending the fiscal year with expenditures of \$698,015 and revenues of \$516,912, resulting in a projected surplus of \$211,722. The surplus is a result of salary and benefits savings due to vacancies. The deficits emerging in forecast years are driven by increases in PERS retirement and health insurance costs.

Assessor-County Clerk-	Modified Budget	Year-End Estimate	Forecast				
Recorder	2020-21	2020-21	2021-22	2022-23	2023-24		
A. Operational Expenditures	\$ 8,503,948	\$ 7,827,536	\$ 8,666,201	\$ 8,894,305	\$ 9,073,599		
B. COWCAP	1,346,476	1,346,476	1,346,476	1,346,476	1,346,476		
C. Total Expenditures	9,850,424	9,174,012	10,012,677	10,240,781	10,420,075		
D. Revenue	4,243,748	4,510,960	4,312,123	4,362,123	4,412,123		
E. Financing Need, C-D	5,606,676	4,663,052	5,700,554	5,878,658	6,007,952		
F. Preliminary GFC	5,606,676	5,606,676	5,413,482	5,413,482	5,413,482		
G. Surplus/(Deficit), F-E	\$-	\$ 943,624	\$ (287,072)	\$ (465,176)	\$ (594,470)		

Assessor-County Clerk/Recorder – The Assessor-County Clerk/Recorder estimates year-end expenditures of \$9.2 million, revenues of \$4.5 million, resulting in a surplus of \$943,624. The surplus is the result of lower than budgeted expenditures due to unexpected vacancies in the Assessor's office and higher than budgeted revenues due to an unanticipated increase in recordings in the Recorder's office. Projected deficits in the forecasted years are due to estimated step advances and employee benefit costs.

Board of Supervisors	Modified Budget	Year-End Estimate	Forecast		
Board of Supervisors	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$ 3,500,244	\$ 3,353,018	\$ 3,631,644	\$ 3,711,603	\$ 3,780,158
B. COWCAP	489,814	489,814	489,814	489,814	489,814
C. Total Expenditures	3,990,058	3,842,832	4,121,458	4,201,417	4,269,972
D. Revenue	-	-	-	-	-
E. Financing Need, C-D	3,990,058	3,842,832	4,121,458	4,201,417	4,269,972
F. Preliminary GFC	3,990,058	3,990,058	3,946,493	3,946,493	3,946,493
G. Surplus/(Deficit), F-E	\$-	\$ 147,226	\$ (174,965)	\$ (254,924)	\$ (323,479)

**Board of Supervisors** – The budget for the Board of Supervisors includes six general fund units, providing for each of the five districts and a general pool that covers shared expenses not specific to any one district. The Department projects year-end expenditures of \$3.8 million compared to a budgeted County contribution of \$4.0 million, resulting a year end estimated surplus of \$147,226. The estimated surplus is primarily from salary savings due to a vacancy. The deficits emerging in forecast years are driven by cost increases related to higher salaries, health insurance premiums, PERS, and general liability insurance.

Child Support Services	Modified Budget	Year-End Estimate	Forecast		
Child Support Services	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$10,539,426	\$ 9,814,249	\$10,229,947	\$10,468,710	\$10,672,329
B. COWCAP	1,306,497	1,306,497	1,306,497	1,306,497	1,306,497
C. Total Expenditures	11,845,923	11,120,746	11,536,444	11,775,207	11,978,826
D. Revenue	11,404,094	10,920,522	10,556,428	10,556,428	10,556,428
E. Financing Need, C-D	441,829	200,224	980,016	1,218,779	1,422,398
F. Preliminary GFC	441,829	441,829	-	-	-
G. Surplus/(Deficit), F-E	\$-	\$ 241,605	\$ (980,016)	\$ (1,218,779)	\$ (1,422,398)

**Child Support Services** - Child Support Services is typically funded entirely through federal and state subventions for mandated services. However, in FY 2020-21 the department received a lower allocation from the State (compared to the prior fiscal year) due to significant changes to the child support program in response to the fiscal crisis caused by the COVID-19 pandemic and other economic factors. Accordingly, the Board of Supervisors allocated \$441,829 of general fund contribution to balance the FY 2020-21 budget.

It is projected that the State Department of Child Support Services will keep the department's funding allocations status quo in the next 3 years, FY 2021-22, FY 2022-23, and FY 2023-24 which is insufficient to cover existing service levels. The forecast assumes elimination of 8 vacant positions that have not been filled due to the insufficient revenue. Even then, the department is anticipating a need for general fund contribution in the upcoming years to maintain currently filled positions, largely due to a stagnant allocation from the State and additional increases in employee salaries and benefits and increases in County Overhead Allocation (COWCAP) costs. Unless other means are taken to offset escalating costs, the cost increases will impact Child Support Services' ability to maintain existing resources and to continue delivering an important service to the children and families of Monterey County.

Civil Rights Office	Modified Budget	Year-End Estimate	Forecast		
Civil Rights Office	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$ 922,572	\$ 922,572	\$ 932,858	\$ 951,284	\$ 972,927
B. COWCAP	(1,164,820)	(1,164,820)	(1,164,820)	(1,164,820)	(1,164,820)
C. Total Expenditures	(242,248)	(242,248)	(231,962)	(213,536)	(191,893)
D. Revenue	-	-	-	-	-
E. Financing Need, C-D	(242,248)	(242,248)	(231,962)	(213,536)	(191,893)
F. Preliminary GFC	(242,248)	(242,248)	(253,747)	(253,747)	(253,747)
G. Surplus/(Deficit), F-E	\$-	\$-	\$ (21,785)	\$ (40,211)	\$ (61,854)

**Civil Rights** – The Civil Rights Office estimates coming within its budget during the current fiscal year. However, as salary and healthcare costs continue to increase, and civil rights training and investigation services expand to meet organizational needs and state and federal requirements, the department anticipates deficits at current-level funding for forecasted years.

Clerk of the Board		lodified Budget		ear-End Estimate	Forecast						
Cierk of the Board		2020-21		2020-21		2021-22		2022-23		2023-24	
A. Operational Expenditures	\$	780,958	\$	683,039	\$	790,762	\$	815,556	\$	834,955	
B. COWCAP		161,239		161,239		161,239		161,239		161,239	
C. Total Expenditures		942,197		844,278		952,001		976,795		996,194	
D. Revenue		20,000		20,000		20,000		20,000		20,000	
E. Financing Need, C-D		922,197		824,278		932,001		956,795		976,194	
F. Preliminary GFC		922,197		922,197		859,201		859,201		859,201	
G. Surplus/(Deficit), F-E	\$	-	\$	97,919	\$	(72,800)	\$	(97,594)	\$	(116,993)	

**Clerk of the Board** – The Clerk of the Board estimates year-end expenditures of \$844,278 and revenue of \$20,000 and ending the year with a surplus of \$97,919. The surplus is mainly due to vacancies. In forecasted years, revenues from assessment appeal applications filings are projected to remain static while expenditures are expected to continue rising due to step advances and employee benefit costs resulting in projected deficits.

Cooperative Extension	Modified Budget	Year-End Estimate	Forecast			
	2020-21	2020-21	2021-22	2022-23	2023-24	
A. Operational Expenditures	\$ 437,489	\$ 437,455	\$ 438,978	\$ 454,129	\$ 464,573	
B. COWCAP	39,372	39,372	39,372	39,372	39,372	
C. Total Expenditures	476,861	476,827	478,350	493,501	503,945	
D. Revenue	27,193	27,301	26,626	26,765	26,989	
E. Financing Need, C-D	449,668	449,526	451,724	466,736	476,956	
F. Preliminary GFC	449,668	449,668	424,515	424,515	424,515	
G. Surplus/(Deficit), F-E	\$-	\$ 142	\$ (27,209)	\$ (42,221)	\$ (52,441)	

**Cooperative Extension -** The Cooperative Extension estimates ending the current year with \$476,827 in expenditures, \$27,301 in revenue and a general fund contribution of \$449,526.

Compared to budget, the Department estimates it will end the year with a negligible surplus. The Cooperative Extension projects a deficit in forecast years due to increases in general liability charges and salary and benefit cost increases driven by higher PERS and employee health insurance premiums. Revenue forecasts are also anticipated to have a slight decrease due to budget constraints from the UC.

County Administrative	Modified Budget	Year-End Estimate	Forecast				
Office	2020-21	2020-21	2021-22	2022-23	2023-24		
A. Operational Expenditures	\$ 25,598,569	\$23,559,564	\$10,673,122	\$10,903,837	\$11,080,721		
B. COWCAP	(3,951,658)	(3,951,658)	(3,951,658)	(3,951,658)	(3,951,658)		
C. Total Expenditures	21,646,911	19,607,906	6,721,464	6,952,179	7,129,063		
D. Revenue	1,358,696	1,252,192	403,291	403,291	403,291		
E. Financing Need, C-D	20,288,215	18,355,714	6,318,173	6,548,888	6,725,772		
F. Preliminary GFC	20,288,215	20,288,215	6,149,030	6,149,030	6,149,030		
G. Surplus/(Deficit), F-E	\$-	\$ 1,932,501	\$ (169,143)	\$ (399,858)	\$ (576,742)		

**County Administrative Office -** The table above summarizes the finances for the County's Administration "departmental" operations, including Administration and Finance, Budget and Analysis, Contracts/Purchasing, Intergovernmental and Legislative Affairs (IGLA), Emergency Services, Community Engagement & Strategic Advocacy, Fleet Administration, and Mail & Courier.

The Department projects year-end expenditures of \$19.6 million, revenues of \$1.25 million, and a County contribution of \$18.36 million. These projections result in a year-end estimated surplus of \$1.9 million. The surplus is attributed to salary savings in CAO Admin & Budget, Housing & Economic Development, Fleet Administration, and increased revenue in Contracts-Purchasing related to Fort Ord Reuse Authority.

The Department is projecting deficits in the forecast years driven by cost increases related to higher salaries, health insurance premiums, PERS, and general liability insurance.

County Counsel	Modified Budget	Year-End Estimate	Forecast			
County Counser	2020-21	2020-21	2021-22	2022-23	2023-24	
A. Operational Expenditures	\$ 5,351,987	\$ 5,090,850	\$ 5,356,520	\$ 5,508,136	\$ 5,602,114	
B. COWCAP	(1,876,909)	(1,876,909)	(1,876,909)	(1,876,909)	(1,876,909)	
C. Total Expenditures	3,475,078	3,213,941	3,479,611	3,631,227	3,725,205	
D. Revenue	357,000	485,060	370,000	370,000	370,000	
E. Financing Need, C-D	3,118,078	2,728,881	3,109,611	3,261,227	3,355,205	
F. Preliminary GFC	3,118,078	3,118,078	2,752,603	2,752,603	2,752,603	
G. Surplus/(Deficit), F-E	\$-	\$ 389,197	\$ (357,008)	\$ (508,624)	\$ (602,602)	

**County Counsel** - County Counsel estimates it will end the current fiscal year with \$3.2 million in expenditures, revenue of \$485,060 and a \$389,197 surplus. The surplus is due to vacancies, and the estimates could change if vacancies are filled or other expenses arise. The deficits emerging in

District Attorney	Modified Budget	Year-End Estimate	Forecast		
District Attorney	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$ 27,651,282	\$ 26,756,328	\$ 30,095,558	\$ 30,693,219	\$ 31,289,929
B. COWCAP	7,874,518	7,874,518	7,874,518	7,874,518	7,874,518
C. Total Expenditures	35,525,800	34,630,846	37,970,076	38,567,737	39,164,447
D. Revenue	15,276,205	14,673,812	15,340,721	16,226,428	17,165,774
E. Financing Need, C-D	20,249,595	19,957,034	22,629,355	22,341,309	21,998,673
F. Preliminary GFC	20,249,595	20,249,595	19,303,415	19,303,415	19,303,415
G. Surplus/(Deficit), F-E	\$-	\$ 292,561	\$ (3,325,940)	\$ (3,037,894)	\$ (2,695,258)

forecast years are driven mainly by cost increases related to salaries, PERS retirement contribution rates, health insurance premiums, and Workers' Compensation.

**District Attorney** – The Office of the District Attorney (DA) anticipates year-end expenditures of \$34.6 million, revenues of \$14.6 million and \$20 million in County contribution, resulting in a yearend surplus of \$292,561. Most of the surplus results from salary savings due to vacant positions over the first 6-months of the Fiscal year. The DA projects deficits in the forecast years primarily due to forecasted salary increases and the increasing costs related to PERS retirement, health insurance premiums and allocated costs such as workers' compensation insurance, without any commensurate increase in revenues.

Elections Department	Modified Budget	Year-End Estimate	Forecast		
Liections Department	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$ 5,521,156	\$ 6,082,514	\$ 4,512,980	\$ 4,615,024	\$ 4,684,770
B. COWCAP	1,915,284	1,915,284	1,915,284	1,915,284	1,915,284
C. Total Expenditures	7,436,440	7,997,798	6,428,264	6,530,308	6,600,054
D. Revenue	1,373,229	1,945,144	1,156,500	1,156,500	1,156,500
E. Financing Need, C-D	6,063,211	6,052,654	5,271,764	5,373,808	5,443,554
F. Preliminary GFC	6,063,211	6,063,211	4,875,332	4,875,332	4,875,332
G. Surplus/(Deficit), F-E	\$-	\$ 10,557	\$ (396,432)	\$ (498,476)	\$ (568,222)

**Elections** - The Elections Department administers all federal, state, county, and local public elections. Departmental expenditures and revenues vary based on the number and size of scheduled and unscheduled special elections each year. The Department expects to end the current year with expenditures of \$8.0 million, revenues of \$1.9 million, and a County contribution of \$6.1 million. Compared to budget, the Department will end the year with a negligible surplus. Both expenditures and revenues are estimated to be significantly higher compared to the adopted budget due to the execution of the General Presidential Election during a pandemic. While this resulted in higher expenditures, it also brought about increased revenue which was received from a Federal and a private grant.

Projected expenditures and revenues in forecast years reflect estimated charges for one scheduled election per fiscal year: a statewide primary in FY 2021-22, a statewide general in FY 2022-23, and a Presidential Primary in FY 2023-24. Forecasted expenditures and revenues are expected to be lower since they exclude costs and reimbursements of a General Presidential Election, which occurred in the current year. The funds necessary to conduct mandated county, State and federal

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elections must be provided by the General Fund. Revenues from local districts reimburse the cost of their portion of the election. Deficits in forecast years arise from reduced GFC combined with increases in salary and benefit costs.

Health	Modified Budget	Year-End Estimate	Forecast		
Tealth	2020-21	2020-21	2021-22	2021-22 2022-23	2023-24
A. Operational Expenditures	\$ 98,790,681	\$ 95,343,361	\$ 104,811,041	\$ 107,463,211	\$ 109,931,551
B. COWCAP	10,326,321	10,326,321	10,326,321	10,326,321	10,326,321
C. Total Expenditures	109,117,002	105,669,682	115,137,362	117,789,532	120,257,872
D. Revenue	88,995,738	77,510,221	90,113,960	90,616,634	90,652,090
E. Financing Need, C-D	20,121,264	28,159,461	25,023,402	27,172,898	29,605,782
F. Preliminary GFC	20,121,264	20,121,264	14,673,354	14,673,354	14,673,354
H. Surplus/(Deficit), F-E-G	\$-	\$ (8,038,197)	\$ (10,350,048)	\$ (12,499,544)	\$ (14,932,428)

**Health Department** – The Health Department provides a wide array of services including but not limited to animal services, public health, clinic services, public guardian/conservator/administrator, emergency medical services, and environmental health. The Department estimates year-end expenditures of \$105.7 million, revenues of \$77.5 million, and a financing need of \$28.2 million.

Year-end expenditures are estimated at \$3.4 million lower than budgeted primarily due to salary savings of \$8.6 million resulting from a vacancy rate of 17% as the Department experiences challenges finding qualified staff, particularly in the Primary Care Clinics Bureau. These savings were offset by increased outlays for services and supplies and fixed assets totaling \$4.3 million attributable to the COVID-19 emergency response efforts, a decrease in intradepartmental reimbursements totaling \$1.5 million resulting from redirection of staff from reimbursable activities to emergency response efforts, and a liability payment to the State totaling \$4.07 million. As of March 2015, some Central California Alliance for Health members were moved from fee-for-service to capitation with the State performing yearly reconciliations. Any over payment for services rendered by the County found by the State must be returned. Revenue is projected to end the year \$11.5 million below budget. The high vacancy rate coupled with redirection of staff to the COVID-19 emergency response impacted the amount of services provided, therefore decreasing revenue.

The Department projects ending the current fiscal year with an overall \$8.0 million deficit. The projected deficit of is primarily due to estimated expenditures incurred for the Department's direct response to the COVID19 pandemic. There is an expected offset for these expenditures from related shared Federal funding. This shared funding would result in a balanced year-end result. The deficits in the forecast years are due to the AB 85 revenue redirection, projected salary step increases, health insurance costs, and increased pension costs. Also reflected in forecasted revenues is the phase out of the Whole Person Care grant which ends in December of 2021.

Human Resources	Modified Budget	Year-End Estimate	Forecast		
numan Resources	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$ 5,362,672	\$ 5,333,718	\$ 5,664,135	\$ 5,824,189	\$ 5,946,979
B. COWCAP	(5,238,368)	(5,238,368)	(5,238,368)	(5,238,368)	(5,238,368)
C. Total Expenditures	124,304	95,350	425,767	585,821	708,611
D. Revenue	-	-	-	-	-
E. Financing Need, C-D	124,304	95,350	425,767	585,821	708,611
F. Preliminary GFC	124,304	124,304	146,539	146,539	146,539
G. Surplus/(Deficit), F-E	\$-	\$ 28,954	\$ (279,228)	\$ (439,282)	\$ (562,072)

**Human Resources** – The Human Resources Department projects \$28,954 in surplus for the current fiscal year due to position vacancies. A deficit is projected for the forecasted years. The deficit is projected to grow over the next few years primarily due to rising salary and benefit costs, such as position step advances, pension contributions, and health insurance premiums.

Information Technology	Modified Budget	Year-End Estimate	Forecast		
mormation recimology	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$21,303,889	\$21,303,889	\$20,679,505	\$21,197,354	\$21,624,870
B. COWCAP	(22,534,863)	(22,534,863)	(22,534,863)	(22,534,863)	(22,534,863)
C. Total Expenditures	(1,230,974)	(1,230,974)	(1,855,358)	(1,337,509)	(909,993)
D. Revenue	750,000	750,000	750,000	755,000	768,000
E. Financing Need, C-D	(1,980,974)	(1,980,974)	(2,605,358)	(2,092,509)	(1,677,993)
F. Preliminary GFC	(1,980,974)	(1,980,974)	(2,700,279)	(2,700,279)	(2,700,279)
G. Surplus/(Deficit), F-E	\$-	\$-	\$ (94,921)	\$ (607,770)	\$ (1,022,286)

**Information Technology** – The Information Technology Department estimates year-end expenditures of \$1.2 million, revenue of \$750,000, and a general fund contribution of \$2.0 million. Expenditures and revenues are projected to meet the budget. The forecasted years assume a growing deficit, mainly due to nominal growth in operating revenue and larger increases in salary and benefit costs, general liability, and operating costs.

Probation	Modified Budget	Year-End Estimate	Forecast		
FIODALION	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$51,142,528	\$51,142,528	\$53,056,563	\$54,237,676	\$55,142,820
B. COWCAP	4,194,506	4,194,506	4,194,506	4,194,506	4,194,506
C. Total Expenditures	55,337,034	55,337,034	57,251,069	58,432,182	59,337,326
D. Revenue	29,930,747	29,337,251	29,867,575	29,979,840	30,082,215
E. Financing Need, C-D	25,406,287	25,999,783	27,383,494	28,452,342	29,255,111
F. Preliminary GFC	25,406,287	25,406,287	24,331,063	24,331,063	24,331,063
G. Surplus/(Deficit), F-E	\$-	\$ (593,496)	\$ (3,052,431)	\$ (4,121,279)	\$ (4,924,048)

**Probation** – The Department's FY 2020-21 year-end estimate reflects expenditures of \$55.3 million, revenue of \$29.3 million and a general fund contribution of \$26 million. The projected deficit of \$593,496 is primarily due to estimated expenditures incurred in the amount of \$796,884

from Probation's direct response to the COVID19 pandemic. These expenditures include workplace preparedness purchases of personal protective equipment, sanitation and disinfectant supplies and personnel costs for redirected staff due to mandated shift coverage and contact tracing efforts. There is an expected offset for these expenditures from related shared Federal funding. This shared funding would result in a Departmental adjusted current year end surplus of \$203,388. The forecast for FY 2021-22 through FY 2023-24 indicates deficits ranging from \$3.1 to \$4.9 million. Contributing factors to the forecasted deficits are increases to salaries and benefits related to step increases, rising PERS contribution rates, employee health insurance and general liability insurance.

Public Defender	Modified Budget	Year-End Estimate	Forecast		
Fublic Defender	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$13,827,147	\$13,874,438	\$14,501,929	\$14,841,502	\$15,111,161
B. COWCAP	2,178,576	2,178,576	2,178,576	2,178,576	2,178,576
C. Total Expenditures	16,005,723	16,053,014	16,680,505	17,020,078	17,289,737
D. Revenue	1,348,242	1,398,400	1,330,913	1,330,913	1,330,913
E. Financing Need, C-D	14,657,481	14,654,614	15,349,592	15,689,165	15,958,824
F. Preliminary GFC	14,657,481	14,657,481	14,240,340	14,240,340	14,240,340
G. Surplus/(Deficit), F-E	\$-	\$ 2,867	\$ (1,109,252)	\$ (1,448,825)	\$ (1,718,484)

**Public Defender** - The FY 2020-21 year-end estimate for the Public Defender consists of \$16 million in expenditures, \$1.4 in revenue, and a General Fund Contribution (GFC) of \$14.6 million. The Department projects a surplus of \$2,867 attributed to salary savings from a vacant position. The Department projects a shortfall in the forecasted years driven by estimated cost increases related to salary and benefits, health insurance premiums, PERS, and general liability allocations. The forecasted revenues and expenditures will continue to fluctuate depending on trial related costs and service agreements that maintain the operations of the Department.

Resource Management	Modified Budget	Year-End Estimate	Forecast		
Agency	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$34,134,420	\$33,536,847	\$34,625,567	\$35,807,519	\$36,848,899
B. COWCAP	(1,956,612)	(1,956,612)	(1,956,612)	(1,956,612)	(1,956,612)
C. Total Expenditures	32,177,808	31,580,235	32,668,955	33,850,907	34,892,287
D. Revenue	12,847,684	10,073,803	10,264,276	10,244,276	10,204,276
E. Financing Need, C-D	19,330,124	21,506,432	22,404,679	23,606,631	24,688,011
F. Preliminary GFC	19,330,124	19,330,124	19,356,599	19,356,599	19,356,599
G. Surplus/(Deficit), F-E	\$-	\$ (2,176,308)	\$ (3,048,080)	\$ (4,250,032)	\$ (5,331,412)

Housing and Community Development Department & Department of Public Works, Facilities, and Parks (formerly Resource Management Agency) - The Resource Management Agency (RMA) dissolved on November 30, 2020, and in its place, two new departments were formed: Housing and Community Development Department (HCD) and Department of Public Works, Facilities, & Parks (PWFP). The RMA adopted General Fund budget was kept intact in FY 2020-21 and the two departments jointly managed to the bottom line. Beginning in FY 2021-22, HCD & PWFP will have separate budgets. The current year estimate projects expenditures of \$31.6 million, revenues of \$10.1 million and a general fund contribution of \$19.3 million, for a net estimated deficit of \$2.2 million. This reflects a decrease in estimated revenues versus budget of \$2.5 million and \$0.3 million less in expenditures. Both departments rely on customer support through fees, which came to a halt in mid-March when COVID-19 reached Monterey County. Building revenues declined, as construction was shut down for six weeks and although development activity was steady, it was mostly made up of smaller projects. Parks also saw a decline with both COVID-19 restrictions and the 2020 fires. This, ultimately, resulted in all facility rentals and events being cancelled and complete closure of the parks for multiple months.

The forecasted deficits in outlying years are directly related to non-discretionary cost increases such as pension contributions, employee health insurance premiums, general liability and property insurance premiums. The deficit is also impacted by stagnant revenue.

Sheriff-Coroner	Modified Budget	Year-End Estimate	Forecast		
Sherin-Coroner	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$116,151,346	\$118,090,381	\$122,774,534	\$123,163,917	\$124,950,508
B. COWCAP	6,394,670	6,394,670	6,394,670	6,394,670	6,394,670
C. Total Expenditures	122,546,016	124,485,051	129,169,204	129,558,587	131,345,178
D. Revenue	41,226,579	42,374,145	40,613,700	41,015,493	41,382,961
E. Financing Need, C-D	81,319,437	82,110,906	88,555,504	88,543,094	89,962,217
F. Preliminary GFC	81,319,437	81,319,437	77,236,500	77,236,500	77,236,500
G. Surplus/(Deficit), F-E	\$-	\$ (791,469)	\$ (11,319,004)	\$ (11,306,594)	\$ (12,725,717)

**Sheriff-Coroner** – The Sheriff's Office projects ending the current fiscal year with a deficit estimated at \$791,469. Expenditures are estimated at \$124.5 million or \$1.9 million higher than budget, while revenues are estimated at \$42.4 million or \$1.1 million higher than budget. The General Fund Contribution is estimated to be \$82.1 million.

The increase in expenditures and revenues is due to the unbudgeted COVID-19 response, including additional staffing and pandemic safety measures in the jail and State Hold revenues from halted inmate intake. The Department was allocated \$7.7 million in CARES Act funding to offset the redirection of resources to address the pandemic; which could result in the department ending the year with an adjusted surplus.

The Sheriff's Office projects growing deficits in the forecast years increasing from \$11.3 million in FY 2021-22 to \$12.7 million by FY 2023-24 due to significant increases in general liability and workers compensation insurance in the next three years and the remaining half of the purchase costs of Motorola radios due in FY 2021-22. The forecast assumes status quo salaries and benefits.

Social Services	Modified Budget	Year-End Estimate	Forecast		
Social Services	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$ 207,476,773	\$ 197,391,676	\$ 203,397,310	\$ 205,409,215	\$ 209,545,902
B. COWCAP <sup>1</sup>	5,662,394	5,662,394	5,613,489	5,613,489	5,613,489
C. Total Expenditures	213,139,167	203,054,070	209,010,799	211,022,704	215,159,391
D. Revenue	196,100,882	181,555,366	188,231,206	187,399,729	189,796,026
E. Financing Need, C-D	17,038,285	21,498,704	20,779,593	23,622,975	25,363,365
F. Preliminary GFC	17,038,285	17,038,285	15,480,052	15,480,052	15,480,052
G. Surplus/(Deficit), F-E	\$-	\$ (4,460,419)	\$ (5,299,541)	\$ (8,142,923)	\$ (9,883,313)

**Social Services** – The Department of Social Services (DSS) estimates year-end expenditures of \$203.1 million, revenue of \$181.6 million and General Fund Contribution of \$21.5 million, resulting in a deficit of \$4.5 million. When accounting for the CARES revenue received by the County, this estimated deficit is eliminated. Year-end expenditures are estimated to decrease by \$10.0 million from the modified budget mainly due to salary saving from vacancies (\$6.1 million), less CalWORKS entitlement payments due to caseload decline (\$1.0 million), lower maintenance of Effort (MOE) in Home Supportive Services (\$600,000), and a decrease in Out of Home due to a smaller foster care caseload and emergency placement costs (\$2.9 million). Year-end revenues are estimated to be \$14.5 million below the modified budget correlating with the decrease in expenditures previously mentioned and non-revenue generating Covid-19 expenditures. It should be noted that the year-end revenues, where these estimates may change before year-end closing.

The estimated deficits for the forecast years are directly related to the increases in Pers, health insurance, general liability, and loss of Whole Person Care revenues for grant ending December 31, 2021. For the entitlements, there is a 4% ongoing inflation factor applied annually to the In -Home Support Services (IHSS) Maintenance of Effort (MOE) and an increase in Out of Home Care costs due to an estimated 2.5% colas. Realignment funding is not yet known and was assumed to remain "flat" for the forecast.

Treasurer-Tax Collector	Modified Budget	Year-End Estimate	Forecast		
Treasurer-Tax Collector	2020-21	2020-21	2021-22	2022-23	2023-24
A. Operational Expenditures	\$ 8,843,572	\$ 7,799,382	\$ 8,213,056	\$ 8,454,145	\$ 8,678,803
B. COWCAP	(1,800,850)	(1,800,850)	(1,800,850)	(1,800,850)	(1,800,850)
C. Total Expenditures	7,042,722	5,998,532	6,412,206	6,653,295	6,877,953
D. Revenue	7,123,535	6,058,206	6,229,690	6,372,923	6,505,922
E. Financing Need, C-D	(80,813)	(59,674)	182,516	280,372	372,031
F. Preliminary GFC	(80,813)	(80,813)	(19,332)	(19,332)	(19,332)
G. Surplus/(Deficit), F-E	\$-	\$ (21,139)	\$ (201,848)	\$ (299,704)	\$ (391,363)

**Treasurer-Tax Collector** – The Treasurer-Tax Collector (TTC) projects year end expenditures of \$6.0 million, revenue of \$6.1 million, and a general fund contribution (GFC) of (\$59,674). Use of GFC is estimated to exceed budget by \$21,139. Total salaries and benefits expenditures are projected at \$765,797 below budget, primarily due to vacancies, delayed recruitments, and reorganization of management positions in the Revenue Division. Services and supplies costs are forecast at \$331,472 below budget largely resulting from COVID-19 related temporary suspensions in services from third-

party collectors in the Revenue Division and cost-reduction efforts to offset projected shortfalls in departmental revenue. Overall expenditures are expected to be under budget by \$1.0 million . Revenue is projected to be \$1.1 million below budget as a result of lower levels of reimbursable expenditures and reduced collections due to the COVID-19 pandemic closures and related financial impacts. Estimated expenditures in the forecast years assume earned step increases, increases in service agreement expenditures, and countywide increases for healthcare insurance, PERS Retirement, General Liability and other internal service charges. Forecasted revenue assumes allowable cost recovery based on estimated expenditures for Revenue Division and Treasury services, and conservative increases based on recent and current year experience.

### OTHER MAJOR FUNDS

**Road Fund** – The Road Fund is a special revenue fund established per State law to account for revenues that are legally restricted for County road and bridge construction and related maintenance projects. The Road Fund's primary funding sources for road and bridge projects and maintenance are State Highway User Tax Allocation (HUTA or Gas Tax), the Transportation Agency for Monterey County (TAMC) retail transaction and use tax ordinance (Measure X), the Road Repair and Accountability Act of 2017 (Senate Bill 1 [SB1]), and Transient Occupancy Tax (TOT). Measure X and SB1 are newer revenue streams that produce annual revenues of \$7.1 and \$7.7 million, respectively.

Fund 002 Road Fund	Modified	Year-End			
	Budget	Estimate		Forecast	
	2020-21	2020-21	2021-22	2022-23	2023-24
A. Beginning Fund Balance	\$ 24,679,274	\$ 24,580,891	\$ 16,482,076	\$ 23,085,473	\$24,397,598
B. Revenue	62,529,400	47,160,122	62,196,878	70,849,133	35,951,093
C. Cancellation of Assignments	-	-	-	-	-
D. Total Financing, A+B+C	87,208,674	71,741,013	78,678,954	93,934,606	60,348,691
E. Expenditures	69,975,741	55,258,937	55,593,481	69,537,008	44,000,556
F. Provisions for Assignments	-	-	-	-	-
G. Total Financing Uses, E+F	69,975,741	55,258,937	55,593,481	69,537,008	44,000,556
H. Ending Fund Balance, D-G	\$ 17,232,933	\$ 16,482,076	\$ 23,085,473	\$ 24,397,598	\$16,348,135

**Revenues.** The FY 2020-21 revenue estimate is \$15.4 million less than budget due to construction phases of federally funded projects shifting to FY 2021-22. Examples of these projects include the Monterey Bay Sanctuary Scenic Trail, Bradley Road Bridge, Robinson Canyon Road Bridge Scour Repair, Hartnell Road Bridge, Las Lomas Bicycle, Las Lomas Drainage, and Nacimiento Lake Drive. Accordingly, revenues for FY 2021-22 are projected to increase by \$15.0 million over the current year estimate. Revenues are expected to increase by \$8.7 million in FY 2022-23 and projected to decrease by \$34.9 million in FY 2023-24 as federally funded projects are anticipated to decrease that fiscal year.

**Expenditures.** Estimated expenditures are \$14.7 million under budget as several large project construction phases were deferred until FY 2021-22. Variances between budget and estimate are primarily derived from changes to project timelines and/or scope of work due to the COVID-19 pandemic, 2020 Fires, weather, permitting, and staffing constraints. Expenditures in FY 2022-23 are projected to increase by \$13.9 million due to major projects scheduled for that FY which include Davis Road Bridge, Monterey Bay Sanctuary Scenic Trail, and Johnson Road Bridge Replacement.

**Fund Balance.** Over the last few fiscal years, expenditures have not increased at the same pace as revenues, resulting in a growing fund balance. This same pattern is projected to continue in FY 2021-22 and 2022-23 as Measure X and SB1 are forecasted to increase over that period. However, fund balance is projected to decrease in FY 2023-24 as the fund is projected to have a reduction in federally funded projects and Measure X and SB1 revenues and restricted fund balance will be a financing source for projects such as the Old Stage Road Rehabilitation (Alisal Road to Iverson Road), Elkhorn Road Rehabilitation, and Alisal Road Rehabilitation (Salinas to Hartnell Road).

**Monterey County Free Libraries** – The Monterey County Free Libraries (MCFL) was established to provide library services to the diverse communities of Monterey County under the County Library Law of 1911. MCFL's operations are primarily financed through its own share of the property tax.

Fund 003 Monterey County Free Libraries	Modified	Year-End				
	Budget	Estimate	Forecast			
	2020-21	2020-21	2021-22		2022-23	2023-24
A. Beginning Fund Balance	\$ 3,480,007	\$ 3,480,007	\$ 4,251,7	10 \$	4,545,463	\$ 4,974,388
B. Revenue	10,332,852	11,138,217	10,572,2	15	10,807,244	11,008,213
C. Cancellation of Assignments	-	-		-	-	-
D. Total Financing, A+B+C	13,812,859	14,618,224	14,823,9	25	15,352,707	15,982,601
E. Expenditures	10,406,648	10,366,514	10,278,4	62	10,378,319	10,452,430
F. Provisions for Assignments	-	-		-	-	-
G. Total Financing Uses, E+F	10,406,648	10,366,514	10,278,4	62	10,378,319	10,452,430
H. Ending Fund Balance, D-G	\$ 3,406,211	\$ 4,251,710	\$ 4,545,4	63 \$	4,974,388	\$ 5,530,171

For the current fiscal year end, the Library Department is projecting addition of approximately \$771,000 in Fund Balance primarily due to a CARES allocation that funded COVID related expenses. The department had savings in other areas and did not have to increase appropriations to accommodate COVID related expenses.

The department experienced salary and benefit savings due to unfilled vacancies as in-person libraries were closed due to COVID. Other expenditures such as Other Professional & Special Services, Office Supplies, Conference/Travel, Staff Training, due to the suspension of library in person operations (due to COVID19). However, the department experienced higher expenditures than initially budgeted related to COVID19, such as PPE supplies, expenses for distance learning through Library by Mail, added content and online resources such as OverDrive and Brainfuse, and expenses on janitorial and deep cleaning expenses for worksites.

Current year property tax revenue is slightly higher than budget. Next fiscal year, property tax is projected to increase 3.75%, aligning with County projections. The subsequent two years are projected more conservatively at 2% increase. Current year end revenue also includes the anticipated reimbursement from the CARES Act Fund, in the amount of \$746,426 for redirected staff, staff leave reimbursements, and other expenditures due to COVID. State grants are anticipated to maintain the level of what was originally budgeted for. Library Services revenue is anticipated to experience a decline by at least 33% due to the suspension of library in person services which began during the onset of COVID19, in March of 2020. Contributions are anticipated to maintain the same level,

pending finalization of State funding via the California Library Services Act, and Federal funding via Library Services and Technology Act and E-rate Program funding. At this time, only the California Library Services Act funds are in jeopardy, with a 50% reduction in the proposed Governor's budget, which are anticipated to take effect next fiscal year.

The forecast projects fund balance continues to increase due to favorable property tax revenue and control of expenditures.

**Behavioral Health** – Pursuant to Welfare and Institutions Code Section 5600, the Health Department's Behavioral Health Bureau provides a continuum of County operated and communitybased substance use disorder and mental health services. The program provides community prevention programs, crisis intervention, inpatient psychiatric services, social rehabilitation, supportive housing, and outpatient services primarily to Monterey County Medi-Cal beneficiaries who meet the State Department of Health Care Services, Mental Health Division's medical necessity criteria. In addition, the program also serves many non Medi-Cal eligible residents who have behavioral health disorders.

Fund 023	Modified	Year-End			
	Budget	Estimate		Forecast	
Behavioral Health	2020-21	2020-21	2021-22	2022-23	2023-24
A. Beginning Fund Balance	\$40,345,623	\$40,345,623	\$40,472,870	\$29,196,583	\$13,501,411
B. Revenue	155,747,555	142,876,857	130,949,749	121,562,370	125,219,509
C. Cancellation of Assignments	-	-	-	-	-
D. Total Financing, A+B+C	196,093,178	183,222,480	171,422,619	150,758,953	138,720,920
E. Expenditures	162,360,888	142,749,610	142,226,036	137,257,542	138,598,573
F. Provisions for Assignments	-	-	-	-	-
G. Total Financing Uses, E+F	162,360,888	142,749,610	142,226,036	137,257,542	138,598,573
H. Ending Fund Balance, D-G	\$33,732,290	\$40,472,870	\$29,196,583	\$13,501,411	\$ 122,347

For the current fiscal year, MCHB estimates year-end expenditures of \$142.7 million, which is approximately \$19.7 million below the modified budget of \$162.4 million. The lower expenditures are attributable to a higher than budgeted vacancy rate generating \$5.1 million in salary and benefit savings, lower than anticipated operating transfer in the Whole Person Care program in the amount of \$10.6 million and lower than anticipated Capital Costs of approximately \$3.0 million. Current year-end revenue is estimated at \$142.9 million, which is approximately \$12.9 million below the modified budget of \$155.7. The decrease in revenues is attributable to lower Whole Person Care program revenues.

The forecast years depict a decrease in expenditures and revenues due to the phase out of the Whole Person Care program, which was previously estimated to end on December 2020, but was extended an additional year to December 2021. The program accounted for approximately \$10.0 to \$11.0 million per year. Excluding this significant change, increases in salary and benefits, operating cost increases such as insurance costs and contracted services are projected to increase. This combined with anticipated impacts to revenue streams in realignment and Mental Health Services Act (MHSA) project a significant decrease in fund balance. MCHB will monitor these impacts as it prepares its FY 2021-22 budget and adjust as needed to minimize this impact. As reported in the FY 2018-19 year-end report, fund balance includes \$8.4 million in assigned funds for potential future Medi-Cal program settlement costs.

**Emergency Communications** – The Emergency Communications Department provides dispatch and call taking (9-1-1 and non-emergency) to Monterey County residents and law enforcement, fire protection and emergency medical dispatch services for over 30 local, regional, county, and State public safety agencies.

Fund 028 Emergency Communications	Modified	Year-End			
	Budget	Estimate		Forecast	
	2020-21	2020-21	2021-22	2022-23	2023-24
A. Beginning Fund Balance	\$ 1,034,510	\$ 1,034,510	\$ 1,370,720	\$ 1,427,367	\$ 1,477,317
B. Revenue	12,883,165	12,855,382	12,426,926	12,720,908	12,829,320
C. Cancellation of Assignments	-	-	-	-	-
D. Total Financing, A+B+C	13,917,675	13,889,892	13,797,646	14,148,275	14,306,637
E. Expenditures	12,545,458	12,519,172	12,370,279	12,670,958	12,702,843
F. Provisions for Assignments	-	-	-	-	-
G. Total Financing Uses, E+F	12,545,458	12,519,172	12,370,279	12,670,958	12,702,843
H. Ending Fund Balance, D-G	\$ 1,372,217	\$ 1,370,720	\$ 1,427,367	\$ 1,477,317	\$ 1,603,794

The department received approximately 710,000 phone calls and processed 520,000 calls for service for Law, Fire and EMS events in calendar year 2020. The department is operating under a special revenue fund and expects to end the current year with expenditures totaling \$12.5 million and revenue totaling \$12.9 million, including a County General Fund Contribution (GFC) of \$1.9 million. The department estimates a planned surplus of \$336,210 in the current year. The surplus was planned through the annual budgeting process and will be added to the department's reserve, which is used for future replacement and upgrades to equipment, systems, and building. The reserve is not intended to pay for ongoing operating costs.

Costs are expected to rise in the forecast years due to escalating salaries, pension, healthcare, and insurance costs as well as rising costs of service agreements that maintain the operations at the department. This forecast assumes a flat GFC and in order to cover operations in future years at a status quo level, an increased GFC is required. This GFC represents the cost of the dispatch and emergency call taking services provided to the Sheriff and Probation Departments pursuant to the terms of the 9-1-1 Services Agreement. The department anticipates continuing to build its reserves through the forecast years using the cost sharing ratio in the 9-1-1 Services Agreement. The annual reserve contribution is forecasted at lower levels than the current year because of the flat GFC and the department's fund balance is anticipated to be \$1.6 million by the close of FY 2023-24.

**Natividad Medical Center -** Natividad Medical Center (NMC) is a County enterprise fund, defined as a fund that provides goods and services to the public for a fee, which makes the entity self-supporting.

Fund 451 Natividad Medical Center	Modified	Year-End			
	Budget	Estimate		Forecast	
	2020-21	2020-21	2021-22	2022-23	2023-24
A. Beginning Fund Balance	\$ 38,868,721	\$ 38,868,721	\$ 63,601,740	\$ 70,625,025	\$ 77,101,758
B. Revenue	350,655,299	369,485,656	367,658,873	371,263,836	375,175,459
C. Cancellation of Assignments	-	-	-	-	-
D. Total Financing, A+B+C	389,524,020	408,354,377	431,260,613	441,888,861	452,277,217
E. Expenditures	351,495,795	344,752,637	360,635,588	364,787,103	371,663,319
F. Provisions for Assigments	-	-	-	-	-
G. Total Financing Uses, E+F	351,495,795	344,752,637	360,635,588	364,787,103	371,663,319
H. Ending Fund Balance, D-G	\$ 38,028,225	\$ 63,601,740	\$ 70,625,025	\$ 77,101,758	\$ 80,613,898

**Revenue:** Net revenue for the current year is expected to be \$18.8 million higher than budget. The COVID-19 pandemic continues to impact both operating revenues and expenses. The expected average daily census (ADC) was 112, while the actual has been 127. The primary driver to the increase in the ADC has been from patients treated with the virus. In the first quarter of the fiscal year, the ADC of patients with the virus was 10; in the second quarter, it averaged 15, and at the start of the third quarter has been around 50 patients. Absent from a potential surge during the last quarter of the fiscal year, the trend of patients with the virus requiring hospitalization is on the decline. The increase in net revenues resulted from an increase in the ADC and government assistance for revenue losses from the coronavirus. Cancellation of elective surgeries and appointments to specialty and primary physicians resulting from the shelter in place directive impacted normal business. The vaccination efforts throughout the County and the nation should significantly ease the demand for hospital beds to treat patients with the virus over the following months. The 1115 (Medicaid) Waiver continues to be discussed with the State and Federal government for a renewal.

**Operating Expenses:** Labor and supplies expenses are major contributors to increases in expenditures. The high demand for nurses to treat coronavirus patients increased the use of contracted or travel nurses. Overtime and extra shifts added to the higher costs. Similarly, special supplies or PPE for coronavirus patients also contributed to the increase in expenditures. Expenditures for capital related to normal business was lower than anticipated because of the attention to the virus. Expenditures for operations are forecasted to decrease as the coronavirus pandemic is fully controlled. There is an overall increase in capital expenditures.

**Capital Expenditures:** The current year and the forecasted years include costs for capital projects. NMC forecasts to spend on average \$30.0 million annually on capital projects. Major projects include: (1) Remodeling the Radiology Department and replacing obsolescent medical equipment including the Computer Tomography (CT) and Magnetic Resonance Imaging (MRI); (2) Remodeling the Pharmacy Department; (3) Replacing the current nurse call system; (4) Replacing the angiography equipment; (5) Upgrading the chemical analyzer for testing in the laboratory department; (6) Overall upgrade of the facility internal and external; (7) Upgrade or replacement of hospital system.

**Net Results:** NMC projects an increase in net position from operations totaling \$17.0 million over the current and forecasted years.

**Parks – Lakes Resorts** – The Lake & Resort Operations Fund is a County enterprise fund accounting for Lake Nacimiento operations. It is a proprietary fund that provides goods and services to the public

for a fee, which makes the entity self-supporting. The Resort at Lake Nacimiento is managed under an agreement with an external operator. The agreement allows for reimbursement of the operator's expenditures in addition to a management fee and incentive fee. The Public Works, Facilities & Parks Department is responsible for capital expenses such as repairs to infrastructure.

Fund 452 Lake & Resort Operations	I	Modified	`	Year-End						
		Budget	Estimate		Forecast					
		2020-21		2020-21	2021-22		2022-23		2023-24	
A. Beginning Fund Balance	\$	(470,279)	\$	(470,279)	\$ 1,427,453	\$	2,123,595	\$	2,863,725	
B. Revenue		4,268,676		5,357,340	4,345,157		4,448,880		4,553,788	
C. Cancellation of Assignments		-		-	-		-		-	
D. Total Financing, A+B+C		3,798,397		4,887,061	5,772,610		6,572,475		7,417,513	
E. Expenditures		3,674,584		3,459,608	3,649,015		3,708,750		3,781,127	
F. Provisions for Assignments		-		-	-		-		-	
G. Total Financing Uses, E+F		3,674,584		3,459,608	3,649,015		3,708,750		3,781,127	
H. Ending Fund Balance, D-G	\$	123,813	\$	1,427,453	\$ 2,123,595	\$	2,863,725	\$	3,636,386	

Lake Nacimiento began FY 2020-21 with a negative \$0.5 million fund balance, as prior year expenditures exceeded revenues. The current year estimate projects revenues of \$5.4 million and expenditures of \$3.5 million, for a positive change in fund balance of \$1.9 million. The projected ending fund balance is \$1.4 million is primarily due to a \$1.4 million subsidy from the General Fund to cover the negative beginning balance and replenish Zebra/Quagga Mussel Program restricted funds and insurance proceeds spent in prior years to offset operating losses.

Although COVID-19 has led to sporadic park closures and limited services since March 2020, the resort operator responded quickly with aggressive reductions to discretionary spending and labor costs, which helped mitigate losses. The fund also performed better than prior years under the new model, which excludes Lake San Antonio from this fund as it was deemed unprofitable for a business-type activity.

Revenue for each of the forecast years is projected at around \$1.0 million less than FY 2020-21 due to the exclusion of the one-time General Fund subsidy. Excluding this one-time adjustment, operating revenues are forecasted to improve modestly in each year of the forecast period beginning with FY 2021-22, as it is anticipated the COVID-19 vaccine reaches more people and business starts to approach a degree of normality. Likewise, expenditures are forecasted to increase by \$189,000 to \$3.6 million. Moving forward into FY 2022-23 and FY 2023-24, revenues and expenditures are forecasted to increase incrementally, with revenues outpacing expenditures, resulting in a growing fund balance.



## **Board Report**

# Legistar File Number: 21-163

March 02, 2021

Item No.12

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

Introduced: 2/19/2021

Version: 1

Current Status: Scheduled PM Matter Type: General Agenda Item

a. Briefing and update on COVID-19, including impacts, and action, proposals and plans to address (verbal report);

b. Provide direction to staff to address COVID-19



**Board Report** 

## Legistar File Number: 21-184

March 02, 2021

Item No.13

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

Introduced: 2/25/2021

Version: 1

Current Status: Agenda Ready Matter Type: General Agenda Item

Update on COVID-19 Community Health Worker Project.



## **Board Report**

## Legistar File Number: RES 21-027

March 02, 2021

Item No.14

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

Current Status: Natividad Medical Center -Consent

Matter Type: BoS Resolution

Introduced: 2/1/2021

Version: 1

Adopt Resolution to:

a. Amend Personnel Policies and Practices Resolution (PPPR) No. 98-394 Appendix A to adjust the salary range for the classification of Medical Unit Clerk, as indicated; and

b. Direct the Human Resources Department to implement the changes in the Advantage HRM System.

#### ..Report

**RECOMMENDATION:** 

It is recommended that the Board of Supervisors:

Adopt Resolution to:

a. Amend Personnel Policies and Practices Resolution (PPPR) No. 98-394 Appendix A to adjust the salary range for the classification of Medical Unit Clerk, as indicated; and

b. Direct the Human Resources Department to implement the changes in the Advantage HRM System.

## SUMMARY/DISCUSSION:

The Service Employees International Union (SEIU) Local 521 requested a compensation study for the Medical Unit Clerk classification. The Natividad HR Department conducted a wage study with our comparable agencies and recommends that a new salary range for the Medical Unit Clerk classification be set at \$3,549-\$4,847 (monthly) based on labor market findings.

The Medical Unit Clerk positions are critical to the effective delivery of direct patient care in that they perform a wide variety of clerical duties in support of doctors, nurses and other staff on various inpatient units and within assigned medical treatment areas. The primary function of incumbents within this classification is to act as a unit receptionist for various inpatient units and/or ancillary service departments within an inpatient acute care facility.

In October 2020, SEIU Local 521 requested that a compensation study be conducted on the classification of Medical Unit Clerk citing necessity primarily based on the premise that there was no record available of a compensation study since origination in 1981. Outside of negotiated cost of living adjustments, there is no record of a market analysis being performed since the classification was created to ensure alignment. The wage study is now complete and confirmed that the classification of Medical Unit Clerk is paid 16.35% below the survey mean.

It is therefore recommended the Board of Supervisors approve the proposed action to adjust the

salary range of the Medical Unit Clerk classification to ensure that qualified applicants are recruited and retained for this position that is utilized within various departments of Natividad.

#### **OTHER AGENCY INVOLVEMENT:**

The Monterey County Human Resources Department and SEIU Local 521 concur with the recommendations.

## FINANCING:

There is a salary increase of \$57,586 as a result of these actions for Natividad Medical Center (Unit 9600) FY 2020-21 Adopted Budget. This action does not impact the General Fund.

## BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The proposed recommended actions address the Board of Supervisors Administration Strategic Initiative. The actions demonstrate the County's commitment to meeting the Board's initiatives in recruiting, retaining, and attracting a diverse, talented workforce that supports the mission of Monterey County.

\_\_Economic Development X Administration \_\_Health & Human Services \_\_Infrastructure Public Safety

Prepared by: Janine Bouyea, Assistant Administrator, (831) 783-2701
Approved by: Dr. Gary R. Gray, D.O., Hospital Chief Executive Officer, (831) 783-2553
Irma Ramirez-Bough, Director of Human Resources, (831) 755-5043

Attachments: Resolution



## **Board Report**

## Legistar File Number: RES 21-027

March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

Current Status: Agenda Ready

Matter Type: BoS Resolution

Item No.

Introduced: 2/1/2021

Version: 1

Adopt Resolution to:

a. Amend Personnel Policies and Practices Resolution (PPPR) No. 98-394 Appendix A to adjust the salary range for the classification of Medical Unit Clerk, as indicated; and

b. Direct the Human Resources Department to implement the changes in the Advantage HRM System.

#### ..Report

#### **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

Adopt Resolution to:

a. Amend Personnel Policies and Practices Resolution (PPPR) No. 98-394 Appendix A to adjust the salary range for the classification of Medical Unit Clerk, as indicated; and

b. Direct the Human Resources Department to implement the changes in the Advantage HRM System.

#### SUMMARY/DISCUSSION:

The Service Employees International Union (SEIU) Local 521 requested a compensation study for the Medical Unit Clerk classification. The Natividad HR Department conducted a wage study with our comparable agencies and recommends that a new salary range for the Medical Unit Clerk classification be set at \$3,549-\$4,847 (monthly) based on labor market findings.

The Medical Unit Clerk positions are critical to the effective delivery of direct patient care in that they perform a wide variety of clerical duties in support of doctors, nurses and other staff on various inpatient units and within assigned medical treatment areas. The primary function of incumbents within this classification is to act as a unit receptionist for various inpatient units and/or ancillary service departments within an inpatient acute care facility.

In October 2020, SEIU Local 521 requested that a compensation study be conducted on the classification of Medical Unit Clerk citing necessity primarily based on the premise that there was no record available of a compensation study since origination in 1981. Outside of negotiated cost of living adjustments, there is no record of a market analysis being performed since the classification was created to ensure alignment. The wage study is now complete and confirmed that the classification of Medical Unit Clerk is paid 16.35% below the survey mean.

It is therefore recommended the Board of Supervisors approve the proposed action to adjust the salary range of the Medical Unit Clerk classification to ensure that qualified applicants are recruited

and retained for this position that is utilized within various departments of Natividad.

#### OTHER AGENCY INVOLVEMENT:

The Monterey County Human Resources Department and SEIU Local 521 concur with the recommendations.

#### FINANCING:

There is a salary increase of \$57,586 as a result of these actions for Natividad Medical Center (Unit 9600) FY 2020-21 Adopted Budget. This action does not impact the General Fund.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The proposed recommended actions address the Board of Supervisors Administration Strategic Initiative. The actions demonstrate the County's commitment to meeting the Board's initiatives in recruiting, retaining, and attracting a diverse, talented workforce that supports the mission of Monterey County.

\_\_Economic Development X Administration \_\_Health & Human Services \_\_Infrastructure \_\_Public Safety

Prepared by: Janine Bouyea, Assistant Administrator, (831) 783-2701
Approved by: Dr. Gary R. Gray, D.O., Hospital Chief Executive Officer, (831) 783-2553
Irma Ramirez-Bough, Director of Human Resources, (831) 755-5043

Attachments: Resolution

Dr. Gary R. Gray Dr. Gary R. Gray, Chief Executive Officer

<u>2/19/21</u> Date

## Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No.:	PPPR Control No. 21-002 )
	HRM Control No. 21-002 )
	)
Adopts a Resolution to:	)
a) Amend Personnel Policies and Practices Resolut	tion (PPPR) No. 98-394 Appendix )
A to adjust the Salary Range for the Classification	on of Medical Unit Clerk; and )
b) Direct the Monterey County Human Resources l	Department to implement the )
changes in the Advantage HRM system.	)
	)
	)

WHEREAS, a wage study for the classification of Medical Unit Clerk was completed in response to a request from Service Employees International Union (SEIU) Local 521; and

WHEREAS, the findings of the compensation study determined that the salary range for the classification of Medical Unit Clerk be adjusted in order to align with the labor market; and

WHEREAS, these actions require the Personnel Policies and Practices Resolution No. 98-394 Appendix A to be amended.

NOW, THEREFORE, the Monterey County Board of Supervisors hereby resolved to approve the following:

1. The Personnel Policies and Practices Resolution (PPPR) No. 98-394 Appendix A is amended to adjust the salary range for the classification of Medical Unit Clerk as indicated below;

Classificat	<u>ion Title</u> : M	edical Unit (	Clerk									
Step 1	Hou Step 2	urly, Bi-Wee Step 3	kly and Mo Step 4	nthly Pay Ra Step 5	ates Step 6	Step 7	Class Code	WG *	EEO Cat*	W/C*	BU	FLSA Code*
\$20.474 \$1,637.91 \$3,549	\$21.600 \$1,727.99 \$3,744	\$22.788 \$1,823.03 \$3,950	\$24.041 \$1,923.29 \$4,167	\$25.363 \$2,029.06 \$4,396	\$26.631 \$2,130.51 \$4,616	\$27.963 \$2,237.04 \$4,847	80K21	18	OC	9043	J	Non- exempt

\*provided for information purposes only

2. The County of Monterey Human Resources Department is hereby directed to implement the changes in the Advantage HRM System.

PASSED AND ADOPTED on this \_\_\_\_\_day of \_\_\_\_\_, 2021, by the following vote, to-wit:

AYES: NOES: ABSENT: I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book\_\_\_\_ for the meeting on

Dated:

\_\_\_\_\_•

Valerie Ralph, Clerk of the Board of Supervisors, County of Monterey, State of California

Ву\_\_\_\_\_

, Deputy



**Board Report** 

Legistar File Number: A 21-042

Item No.15

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021

Version: 1

Current Status: Natividad Medical Center -Consent Matter Type: BoS Agreement

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 1 to the agreement (A-13073) with Clinical Computer Systems for OBIX perinatal monitoring and data system services, extending the agreement an additional five (5) year period (April 1, 2021 through March 31, 2026) for a revised full agreement term of April 1, 2016 through March 31, 2026, and adding \$266,450 for a revised total agreement amount not to exceed \$396,844.

## **<u>RECOMMENDATION</u>**:

## It is recommended the Board of Supervisors:

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 1 to the agreement (A-13073) with Clinical Computer Systems for OBIX perinatal monitoring and data system services, extending the agreement an additional five (5) year period (April 1, 2021 through March 31, 2026) for a revised full agreement term of April 1, 2016 through March 31, 2026, and adding \$266,450 for a revised total agreement amount not to exceed \$396,844.

## **SUMMARY/DISCUSSION:**

The OBIX Fetal Monitoring System has been used at Natividad Medical Center since 2011 to electronically monitor fetal heart rates and maternal uterine status in order to monitor maternal and fetal well-being before, during, and after labor. Continuous fetal surveillance monitoring is required for caring and managing both high and low risk laboring patients and it is the standard of care per AWHONN, ACOG and AAP guidelines. This system is critical to care provided by Natividad's OB department and for the care and delivery of babies.

Maintenance and support for this system is needed to address questions, issues, upgrades and enhancements. This request is for the extension of the maintenance and support fees for OBIX for an additional five years. This system is used daily and will continue to be used by the OB department into the future and support for the system as needed. Clinical Computer Systems Inc. represents OBIX and provides the support and maintenance that is needed.

## **OTHER AGENCY INVOLVEMENT:**

The Office of County Counsel has reviewed and approved this amendment No. 1 as to form, and the Auditor-Controller has reviewed and approved as to payment provisions. The amendment No. 1 has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on February 12, 2021.

## FINANCING:

The cost for this Agreement is \$266,450 of which \$78,852 is included in the Fiscal Year 2020-21 Adopted Budget. Amounts for remaining years of the agreement will be included in those budgets as appropriate.

## **BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This amendment is for the continued use of a system which allows perinatal and uterine monitoring and is critical to the health of mothers and babies born in Monterey County.

- Economic Development
- \_\_\_\_ Administration
- X Health and Human Services
- \_\_\_ Infrastructure
- \_\_\_\_ Public Safety

Prepared by: Charles Harris M.D., Chief Quality Officer, 783-2785 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2504

Attachments: Clinical Computer Systems, Inc. Amendment No. 1 Original Agreement with Clinical Computer Systems, Inc.

Attachments on file with Clerk of the Board.



**Board Report** 

Legistar File Number: A 21-042

Item No.

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021 Version: 1 Current Status: Agenda Ready Matter Type: BoS Agreement

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 1 to the agreement (A-13073) with Clinical Computer Systems for OBIX perinatal monitoring and data system services, extending the agreement an additional five (5) year period (April 1, 2021 through March 31, 2026) for a revised full agreement term of April 1, 2016 through March 31, 2026, and adding \$266,450 for a revised total agreement amount not to exceed \$396,844.

## **<u>RECOMMENDATION</u>**:

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## **SUMMARY/DISCUSSION:**

The OBIX Fetal Monitoring System has been used at Natividad Medical Center since 2011 to electronically monitor fetal heart rates and maternal uterine status in order to monitor maternal and fetal well-being before, during, and after labor. Continuous fetal surveillance monitoring is required for caring and managing both high and low risk laboring patients and it is the standard of care per AWHONN, ACOG and AAP guidelines. This system is critical to care provided by Natividad's OB department and for the care and delivery of babies.

Maintenance and support for this system is needed to address questions, issues, upgrades and enhancements. This request is for the extension of the maintenance and support fees for OBIX for an additional five years. This system is used daily and will continue to be used by the OB department into the future and support for the system as needed. Clinical Computer Systems Inc. represents OBIX and provides the support and maintenance that is needed.

## **OTHER AGENCY INVOLVEMENT:**

The Office of County Counsel has reviewed and approved this amendment No. 1 as to form, and the Auditor-Controller has reviewed and approved as to payment provisions. The amendment No. 1 has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on February 12, 2021.

## **FINANCING:**

The cost for this Agreement is \$266,450 of which \$78,852 is included in the Fiscal Year 2020-21 Adopted Budget. Amounts for remaining years of the agreement will be included in those budgets as appropriate.

#### **BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This amendment is for the continued use of a system which allows perinatal and uterine monitoring and is critical to the health of mothers and babies born in Monterey County.

- Economic Development Administration X Health and Human Services
- Infrastructure
- Public Safety

Prepared by: Charles Harris M.D., Chief Quality Officer, 783-2785 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2504

Attachments:

Clinical Computer Systems, Inc. Amendment No. 1 Original Agreement with Clinical Computer Systems, Inc.

Attachments on file with Clerk of the Board.

Dr. Gary R. Gray Dr. Gary R. Gray, Chief Executive Officer

<u>2/19/21</u> Date

Agreement A-13073

#### AMENDMENT NO. 1 TO SERVICES AGREEMENT BETWEEN CLINICAL COMPUTER SYSTEMS, INC. AND NATIVIDAD MEDICAL CENTER FOR SUPPORT SERVICES FOR THE OBIX PERINATAL DATA SYSTEM

This Amendment No. 1 to the Services Agreement ("Agreement") which was effective on April 1, 2016 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"), and Clinical Computer Systems, Inc. (hereinafter "CONTRACTOR"); (collectively, the County, NMC and CONTRACTOR are referred to as the "Parties"), with respect to the following:

#### RECITALS

**WHEREAS**, the Agreement was executed for OBIX Perinatal Data Systems support services with a term of April 1, 2016 through March 31, 2021 and a total Agreement amount not to exceed \$130,394; and

**WHEREAS**, NMC and CONTRACTOR currently wish to amend the Agreement to extend it for an additional five (5) year period through March 31, 2026 to allow for services to continue with additions to the original scope of work attached hereto as "Exhibit A-1 per Amendment No. 1" with a \$266,450 increase for the added services for a total Agreement amount of \$396,844.

#### AGREEMENT

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the Original Agreement and in Amendment No 1, incorporated herein by this reference, except as specifically set forth below.

- 1. <u>Section 2 / Paragraph titled</u>, "PAYMENTS BY NMC" shall be amended to the following: "NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in EXHIBIT A plus EXHIBIT A-1 as per Amendment No. 1 attached hereto this Amendment No. 1. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$396,844."
- 2. The first sentence of <u>Section 3 /Paragraph titled</u>, "TERM OF AGREEMENT" shall be amended to the following:

"The term of this Agreement is from April 1, 2016 through March 31, 2026 unless sooner terminated pursuant to the terms of this Agreement."

3. <u>Section 4/ Paragraph titled</u>, "ADDITIONAL PROVISIONS/EXHIBITS" shall be amended to the following:

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

Exhibit A: Scope of Services/Payment Provisions Exhibit A-1: revised Scope of Services/Payment Provisions as per Amendment No.1. Exhibit B: Business Associate Agreement Exhibit C: Software License Terms and Conditions"

4. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment No. 1 and shall continue in full force and effect as set forth in the Agreement and in Amendment No. 1.

- 5. A copy of this Amendment No. 1 shall be attached to the Agreement.
- 6. This Amendment No. 1 shall be effective when signed by the last party.

The remainder of this page was intentionally left blank.

~ Signature page to follow ~

**IN WITNESS WHEREOF,** the Parties hereto are in agreement with this Amendment No. 1 on the basis set forth in this document and have executed this Amendment No. 1 on the day and year set forth herein.

NATIVIDAD MEDICAL CENTER	<b>CONTRACTOR</b>
By: Gary R. Gray, DO, CEO	Clinical Computer Systems, Inc. CONTRACTOR's Business Name
Date:	***See instructions below*** DocuSigned by: Kim Sdl D67718ED6F50406 Kim Sell
APPROVED AS TO LEGAL PROVISIONS	President November 25, 2020 Date:
By: Jacy Saille Monterey County Deputy County Counsel 2/4/2021 Date:	By:
APPROVED AS TO FISCAL PROVISIONS	Date:
By: <u>Jary Jibonsy</u> Monterey County Deputy Auditor/Controller 2-4-2021 Date:	<u>***Instructions***</u> <b>If CONTRACTOR</b> 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 (two signatures required).
Date:	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 (two signatures required).
	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 (one signature required).

# Exhibit A-1 as per Amendment No. 1

Cont					Total	\$0	\$231,133	\$231,133
N.C.	<u>aix.com</u> 3 Ext. 553				Year 5	\$0	\$48,999	\$48,999
per la se	anager: Justin Sell Email: <u>Justin Sell@obix.com</u> Phone: (888) 871-0963 Ext. 553	Date: 10/29/2020 Limit: 2.750	1	Annual Support	Year 4	\$0	\$47,572	\$47,572
	CCSI Sales Manager: Justin Sell Email: <u>Justin Sell</u> Phone: (888) 871-(	Date: 10/29/ BPY Limit: 2.750		Annu	Year 3	\$0	\$46,186	\$46,186
	CCSI Sales				Year 2	\$0	\$44,841	\$44,841
-180			I Summa		Year 1	\$0	\$43,535	\$43,535
			<b>OBIX Perinatal Data System Proposal Summary</b>		Total	\$35,317	ŞO	\$35,317
			ta Syster	System Purchase	Upgrade Services	\$35,317	0\$	\$35,317
			natal Dat	System	Services	\$0	\$0	\$0
			<b>DBIX Perin</b>		Software	\$0	\$0	\$0
lem I I I I			U		Purpose	Upgrade	Support Renewal	
					Quote Date	9/18/2020	10/15/2020	
OBIX perinatal data sys	Designated Site: David Hathaway Natividad Medical Center 1441 Constitution Blud	Salinas, CA 93906			Quote #	CASA-NAMC-UPG		

File ID A 16-055 No. 23



# **Monterey County**

**Board Order** 

168 West Alisal Street. 1st Floor Salinas, CA 93901 831.755.5066

## Agreement No.: A-13073

Upon motion of Supervisor Salinas, seconded by Supervisor Armenta and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute an Agreement with Clinical Computer Systems, Inc. for support services for the OBIX Perinatal Data Systems Services at NMC for an amount not to exceed \$130,394 for the term April 1, 2016 through March 31, 2021; and
- b. Authorized the Deputy Purchasing Agent for NMC or his designee to execute up to three (3) future amendments to the agreement which do not significantly alter the scope of work and do not cause an increase of more than ten percent (10%) of the original cost of the agreement per each amendment.

PASSED AND ADOPTED on this 22nd day of March 2016, by the following vote, to wit:

Supervisors Armenta, Phillips, Salinas and Parker AYES: NOES: None ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on March 22, 2016.

Dated: March 22, 2016 File ID: A 16-055

Gail T. Borkowski, Clerk of the Board of Supervisors County of Monterey, State of California

By Denise Hancock Deputy

# COUNTY OF MONTEREY AGREEMENT FOR SERVICES (MORE THAN \$100,000)

This Agreement for Services (hereinafter "Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter, "the County"), on behalf of Natividad Medical Center ("NMC"), a general acute care teaching hospital wholly owned and operated by the County, and Clinical Computer Systems, Inc. (hereinafter "CONTRACTOR").

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

- 1. GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED. NMC hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibit A in conformity with the terms of the Agreement. The services are generally described as follows: Support of the OBIX Perinatal Data Systems at Natividad Medical Center.
- 2. **PAYMENTS BY NMC.** NMC 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 NMC to CONTRACTOR under this Agreement shall not exceed the sum of **\$130,394**.

## 3. TERM OF AGREEMENT.

- 3.1. The term of this Agreement is from April 1, 2016 through March 31, 2021 unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and NMC and with NMC signing last and CONTRACTOR may not commence work before NMC signs this Agreement.
- 3.2. NMC reserves the right to cancel this Agreement, or an extension of this Agreement, without cause, with a thirty (30) day written notice, or with cause immediately.
- 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: Business Associate Agreement Exhibit C: Software License Terms and Conditions

## 5. PERFORMANCE STANDARDS.

5.1. 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 NMC, or immediate family of an employee of NMC.

Page 1 of 10

Clinical Computer Systems, Inc. Agreement Term: 4/1/2016-3/31/2021 NTE: \$130,394

- 5.2. 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.
- 5.3. 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 NMC 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.

- 6.1. Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provide in this paragraph. NMC does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.2. Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety (90) days prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County (NMC) and the CONTRACTOR.
- 6.3. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement, and then only in accordance with any applicable County policies.
- 6.4. Invoice amounts shall be billed directly to the ordering department.
- 6.5. 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. NMC shall certify the invoice, either in the requested amount or in such other amount as NMC 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. TERMINATION.

- 7.1. During the term of this Agreement, NMC 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.
- 7.2. NMC 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 NMC terminates this Agreement for good cause, NMC may be relieved of the payment of any consideration to Contractor, and NMC may proceed with the work in any manner, which

NMC deems proper. The cost to NMC shall be deducted from any sum due the CONTRACTOR under this Agreement.

7.3 NMC'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 NMC's purchase of the indicated quantity of services, then NMC 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. INDEMNIFICATION.

8.1 CONTRACTOR shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any and all claims, liability 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 County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

## 9. INSURANCE.

9.1 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 NMC's Contracts/Purchasing Department, unless otherwise directed. The CONTRACTOR shall <u>not</u> receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and NMC has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

- 9.2 <u>Qualifying Insurers</u>: 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 NMC's Contracts/Purchasing Director.
- 9.3 <u>Insurance Coverage Requirements:</u> 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:

Page 3 of 10

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 sin	ngle limit for Bodily Injury and Property Damage
of not less than \$1,000,000 per occurrence.	

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

<u>Business automobile liability insurance</u>, 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.

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).

<u>Professional liability insurance</u>, 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).

9.4 Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to NMC 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 NMC shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended

Page 4 of 10

non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insured 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 from 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 from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by NMC, CONTRACTOR shall file certificates of insurance with NMC's Contracts/Purchasing Department, 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 (5) 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 NMC, annual certificates to NMC's Contracts/Purchasing Department. If the certificate is not received by the expiration date, NMC 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 NMC, at its sole discretion, to terminate the Agreement immediately.

## 10. RECORDS AND CONFIDENTIALITY.

10.1 <u>Confidentiality</u>. 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 NMC or prepared in connection with the performance of this Agreement, unless NMC specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to NMC 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 <u>NMC Records</u>. When this Agreement expires or terminates, CONTRACTOR shall return to NMC any NMC records which CONTRACTOR used or received from NMC to perform services under this Agreement.
- 10.3 <u>Maintenance of Records</u>. 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 <u>Access to and Audit of Records</u>. NMC 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 or \$10,000, the parties to this Agreement may be subject, at the request of NMC or as part of any audit of NMC, 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 <u>Royalties and Inventions</u>. NMC shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize other 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 NMC.
- 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, full 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 NMC pursuant to a contract with the state or federal government in which NMC is the grantee, CONTRACTOR will comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, NMC 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

Page 6 of 10

CONTRACTOR and not as an employee of NMC. No offer or obligation of permanent employment with NMC 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 NMC 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 NMC and the County of Monterey harmless from any and all liability, which NMC 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 per-paid mail to NMC and Contractor's contract administrators at the addresses listed below

NATIVIDAD MEDICAL CENTER:	CONTRACTOR:
Natividad medical Center Attn: Contracts Division Natividad Medical Center 1441Constitution Blvd	Name: <u>Clinical Computer Systems, Inc.</u> Attn: <u>Contracts Dept</u> -
Salinas, CA. 93906 FAX: 831-757-2592	Address: 715 Tollgate Road         City, State, Zip: Elgin, IL 60123
	FAX: 847-622-0880 Email: Contracts@obix. Cov

## 15. MISCELLANEOUS PROVISIONS.

- Conflict of Interest: CONTRACTOR represents that it presently has no interest and agrees 15.1 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.
- 15.2 Amendment: This Agreement may be amended or modified only by an instrument in writing signed by NMC and the Contractor.
- Waiver: Any waiver of any terms and conditions of this Agreement must be in writing and 15.3 signed by NMC 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.
- 15.4 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.

Clinical Computer Systems, Inc. Agreement Term: 4/1/2016-3/31/2021 NTE: \$130,394

15.5 <u>Disputes</u>: CONTRACTOR shall continue to perform under this Agreement during any dispute.

- 15.6 <u>Assignment and Subcontracting</u>: The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of NMC. None of the services covered by this Agreement shall be subcontracted without the prior written approval of NMC. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.7 <u>Successors and Assigns</u>: This Agreement and the rights, privileges, duties, and obligations of NMC 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.
- 15.8 <u>Compliance with Applicable Law</u>: The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.9 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement
- 15.11 <u>Governing Law</u>: This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 <u>Non-exclusive Agreement</u>: This Agreement is non-exclusive and each of NMC and CONTRACTOR expressly reserves the right to contract with other entities for the same or similar services.
- 15.13 <u>Construction of Agreement</u>: NMC 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 <u>Counterparts</u>: 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 <u>Integration</u>: This Agreement, including the exhibits, represents the entire Agreement between NMC 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 NMC and CONTRACTOR as of the effective date of this Agreement, which is the date that NMC signs the Agreement.
- 15.16 <u>Interpretation of Conflicting Provisions</u>: 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.

## NATIVIDAD MEDICAL CENTER

Ву:	Gary R. Gray, DO, CEO
Date: _	3/25/16

## APPROVED AS TO LEGAL PROVISIONS

By:

Monterey County Deputy County Counsel

Date:

APPROVED AS TO FISC L PROVISIONS By: Monterey County Deputy Auditor/Controller 6 Date:

## **CONTRACTOR**

## **Clinical Computer Systems, Inc.**

Contractor's Business Name\*\*\* (see instructions) Signature of Chair, President, or Vice-President KIM SELL, PRESIDENT Name and Title Date: By: (Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer) MARK W. RUSSELL, VP. FINANCE Name and Title 219 Date:

## \*\*\*<u>Instructions:</u>

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 (two signatures required). 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 (two signatures required).

If CONTRACTOR is contracting in and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement (one signature required).

Clinical Computer Systems, Inc. Agreement Term: 4/1/2016-3/31/2021 NTE: \$130,394

			EXHIBIT A			
CLIN	NICAL COMPUTER SY	YSTEMS	Headquarters Contact Infor	mation:	Phone: (888) 87	1-0963
		E ()	715 Tollgate Road, Elgin, IL	60123	Fax: (847) 622-0	0880
For:	Natividad Medical Cer 1441 Constitution Blvo Salinas, CA 93906				Date:	2/17/16
	: Karen Medalen : Charles Harris	e-mail address: medalenk@natividad.com harriscr@natividad.com				
From:	Lauren Brown	Phone: (888) 871-0963	Fax: (847) 622-0880	Email:	lauren.brown@	obix.com
	Renewal Term:	April 1, 2016	through March 31, 2	021		
Quantity	BPY Level: Description	2750				
1		Ipport Program: If the features of our Platinum So	oftware Support Program except	t travel and o	on-site labor and	
I	This program includes a limited site tailoring of o materials rates. Custom support capabilities from		nization). On-site labor is avail r Platinum Support. If you hav nents, this Gold Program may	able at our o le reasonabl	current time and le local software	
I	This program includes a limited site tailoring of o materials rates. Custom support capabilities from annual cost for OBIX sof	Il the features of our Platinum So locumentation modules (custom ization is only available with our n your internal technical departn tware support compared to the P <u>Term Da</u>	nization). On-site labor is avail r Platinum Support. If you hav nents, this Gold Program may latinum Program. <u>tes</u>	able at our o le reasonabl	current time and le local software	<u>Price</u>
I	This program includes a limited site tailoring of o materials rates. Custom support capabilities from annual cost for OBIX sof	II the features of our Platinum So locumentation modules (custom ization is only available with our n your internal technical departn tware support compared to the P <u>Term Da</u> April 1, 2016 through	nization). On-site labor is availi r Platinum Support. If you hav nents, this Gold Program may latinum Program. <u>tes</u> March 31, 2017	able at our o le reasonabl	current time and le local software b budget a lower	\$ 15,697
I	This program includes a limited site tailoring of o materials rates. Custom support capabilities from annual cost for OBIX soft Year 1 Year 2	II the features of our Platinum So locumentation modules (custom ization is only available with our n your internal technical departn tware support compared to the P <u>Term Da</u> April 1, 2016 through April 1, 2017 through	hization). On-site labor is avail r Platinum Support. If you hav nents, this Gold Program may latinum Program. <u>tes</u> March 31, 2017 March 31, 2018	able at our o le reasonabl	current time and le local software b budget a lower	\$
I	This program includes a limited site tailoring of o materials rates. Custom support capabilities from annual cost for OBIX sof	II the features of our Platinum So locumentation modules (custom ization is only available with our n your internal technical departn tware support compared to the P <u>Term Da</u> April 1, 2016 through	hization). On-site labor is avail r Platinum Support. If you hav nents, this Gold Program may Natinum Program. <u>tes</u> March 31, 2017 March 31, 2018 March 31, 2019	able at our o le reasonabl	current time and le local software budget a lower	\$ 15,697 \$ 15,697 \$ 15,697 \$ 15,697
I	This program includes a limited site tailoring of o materials rates. Custom support capabilities from annual cost for OBIX soft Year 1 Year 2 Year 3	II the features of our Platinum So locumentation modules (custom ization is only available with our n your internal technical departs tware support compared to the P <u>Term Da</u> April 1, 2016 through April 1, 2017 through April 1, 2018 through	hization). On-site labor is avail r Platinum Support. If you hav nents, this Gold Program may Natinum Program. <u>tes</u> March 31, 2017 March 31, 2018 March 31, 2019 March 31, 2020	able at our o le reasonabl	current time and le local software budget a lower	\$ 15,697 \$ 15,697 \$ 15,697 \$ 15,697

Services shall be paid at the beginning of each term and within 30 days of receipt of a certified invoice by the County Auditor-Controller.

## (EXHIBIT A CONTINUED) SUPPORT SERVICES

The products ("Products') covered under Support Services include all Software ("Software") purchased by NMC from VENDOR.

## 1. <u>COVERAGE</u>

1.1 <u>Software Support Services</u>. Software Support Services shall include the following:

1.1.1 <u>Software Updates</u>. VENDOR shall provide and NMC shall accept and in a promptly commercially reasonable time install VENDOR's periodic modifications, revisions, new versions and updates to the Software modules which NMC has purchased up to that date, which VENDOR, in its sole discretion, incorporates into those Software modules without additional charge. All modifications, revisions, new versions and updates provided hereunder shall be considered part of the Software within the meaning of this Agreement.

1.1.2 <u>Software Maintenance</u>. Subject to the limitations set forth in Section 4 of this Exhibit, VENDOR will use commercially reasonable efforts to correct any reproducible errors constituting Complete System Downtime and Partial System Downtime that NMC reports to VENDOR in the most current version and the version immediately preceding the current version of VENDOR's Software. For these purposes, the current version is the most current commercially available version of the Software.

1.1.3 <u>Software Training</u>. VENDOR and NMC will use reasonable commercial efforts to ensure that the appropriate personnel of NMC shall receive training to the extent required to reasonably familiarize NMC and its designated personnel with the Software and with updates thereto.

Training on minor updates and/or upgrades may be provided remotely using internet based remote conferencing tools. In the event NMC requests on-site training services which normally would be offered by remote conferencing, NMC shall pay VENDOR's travel and accommodation expenses. Other training will be on an as requested basis and will be charged at VENDOR's then prevailing rates.

1.1.4 <u>Telephone Support</u>. VENDOR shall make available to NMC toll free telephone support to assist in the implementation and/or utilization of the Software. Such service will be available 24 hours a day, 365 days a year to NMC's designated and trained personnel. NMC shall internally resolve all routine questions about VENDOR's Software (e.g. logging on, passwords, network problems) prior to contacting VENDOR.

1.1.5 <u>Types of Software Support\_Services</u>. CHECK ONE OF THE BOXES BELOW TO DESIGNATE WHETHER YOU WANT PLATINUM OR GOLD SOFTWARE SUPPORT SERVICES.

- Platinum Software Support Services. Our Platinum Software Support Services is a complete on-site support commitment that provides clinicians/users with a single point of contact for all OBIX software-related issues. The Platinum Agreement includes:
  - 24/7/365 Toll-free technical phone support
  - Travel and on-site labor as required to support the Software
  - Staff refresher education on all Software
  - OBIX System webinars and CE webinars
  - Customization of documentation modules on a one-time-per-year requested basis
  - Software updates to improve existing system features and functions
  - · Regulatory enhancements as required
- X Gold Software Support Services. Gold Support Services may allow you to budget a lower annual cost for Software support. Gold Software Support Services includes all of the features of the Platinum Support Services except travel and on-site labor and Customization of documentation modules. Customization is not available unless NMC is under a Platinum Support plan. Travel and onsite labor is available at VENDOR's current time and materials rates.

1.2 <u>Response Time</u>. Response time will be provided in accordance with the VENDOR Service Level Terms attached hereto as Appendix A.

2. <u>TERM</u>

2.1 <u>Term of Software Support Services</u>. The Software Support Services provided hereunder shall commence on April 1, 2016 and shall remain in full force and effect for an initial period of sixty (60) months (the "Term"). NMC shall issue a 5-year purchase order to VENDOR for support and VENDOR will invoice NMC annually using that purchase order number. Alternatively, NMC may issue a purchase order to VENDOR on an annual basis sixty (60) days prior to the expiration of the previous purchase order

2.2 <u>Failure To Perform</u>. If VENDOR fails to perform in any material respect, or observe any material term or condition under Support Services, NMC shall provide VENDOR with written notice thereof. If VENDOR fails to cure such failure within thirty (30) days or, if the cure shall require more than thirty (30) days, commence to cure such failure within such thirty (30) days, NMC may terminate Support Services without penalty and receive a pro rata refund of service fees from the date of notice.

2.3 <u>Restoration of Services</u>. If, after NMC has terminated Software Support Services pursuant to Sections 2.1, NMC desires to restore services under this Agreement or under

a new Support Services Agreement, then, NMC shall first pay to VENDOR a restoration charge (the "Charge") equal to fifty percent (50%) of the fee that VENDOR would have been entitled to under this Agreement for the period commencing as of the date of termination of such Support Services by NMC and ending as of the date of restoration of such services under this Agreement or a new Agreement.

## 3. SERVICE FEES, PAYMENT TERMS AND TAXES

NMC hereby agrees to pay the annual service fee for Software Support Services provided under this Agreement ("Service Fees"), within thirty (30) days of certification of invoice. The Service Fees are as follows:

- Year One (through March 31, 2017): \$15,697
- Year Two (4/1/17 thru 3/31/18): \$15,697
- Year Three (4/1/18 thru 3/31/19): \$15,697
- Year Four (4/1/19 thru 3/31/20): \$41,036
- Year Five (4/1/20 thru 3/31/21): \$42,267

In addition the Service Fees will increase on a pro-rata basis if additional software is purchased during the term of this Agreement. In the event NMC renews the Support Services at the end of the Term, the renewal price will be negotiated between the Parties in accordance with Section 6 of the Agreement.

Service Fees exclude sales, use, excise or other similar taxes. Consequently, in addition to the fees set forth herein, the amount of any present or future sales, use, excise, value-added, privilege or other similar tax, however designated or levied, applicable to the products or service furnished hereunder, or based on the fees charged or based on gross revenue, and any taxes or amounts in lieu thereof or payable by VENDOR, with respect to the foregoing, exclusive of taxes based on VENDOR income, shall be paid by NMC. In lieu thereof, NMC shall provide VENDOR with a tax-exemption certificate in a form acceptable to the appropriate taxing authorities. At VENDOR's option, contract coverage does not start until payment has been received.

## 4. <u>ITEMS NOT COVERED</u>

Fetal monitor interconnect cables and/or other equipment listed under Miscellaneous in the Price Quote, if any, are considered consumables and are not covered by this warranty. Maintenance required to repair damages, malfunctions, service failures or Products performance caused by the following are not covered by this Agreement: (i) misuse, abuse, neglect, improper or unauthorized installation, operation, maintenance, repair, alteration or modification of Products by NMC, its employees, agents, contractors, representatives, invitees or any other persons engaged by NMC other than VENDOR and its contractors; (ii) failure to follow the manufacturer's or VENDOR's installation, operation or maintenance instructions set forth in the On-Site Technical Reference Manual, the Site Preparation Manual, the User Manual and the OnSite Clinical Education Manual; (iii) use of hardware that does not comply with VENDOR's hardware configurations set forth in the On-Site Technical Reference Manual and the Site Preparation Manual; or (iv) accident or unusual destruction or degradation of Products or parts thereof due to physical environment or electrical or electronic noise environment or by power failure, surge or fluctuations, or air conditioning failure or malfunction; or (v) safety and performance monitoring programs (e.g. anti-virus software) not installed by VENDOR that degrades the performance of VENDOR's Products. In such instances, VENDOR may agree to perform maintenance services on a time-and-materials basis.

## 5. <u>PERFORMANCE WARRANTY</u>

VENDOR WARRANTS THAT THE SERVICES PROVIDED HEREIN WILL BE PERFORMED IN A DILIGENT AND WORKMANLIKE MANNER BY INDIVIDUALS OF SUITABLE TRAINING AND SKILL IN ACCORDANCE WITH GENERALLY ACCEPTED INDUSTRY PRACTICES. EXCEPT AS SET FORTH ABOVE, VENDOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING BETWEEN THE PARTIES OR USAGE OF TRADE. Appendix A to the Agreement

## SERVICE LEVEL TERMS

This Appendix defines "normal" response scenarios and describes CLINICAL COMPUTER SYSTEMS INC. ("VENDOR") levels of service delivered to fulfill its obligations under the Agreement. VENDOR will use commercially reasonable efforts to maintain the following response times: (1) telephone response time within 30 minutes of NMC notification of the problem; (2) VPN or other comparable remote access support within 45 minutes provided NMC is making access available; (3) on-site support within 24 hours for Complete System Downtime (as hereinafter defined); and (4) next business day for Partial System Downtime. Response times for onsite service needs are the same day or the next day and/or can depend on transportation availability, and severity of problem NMC is encountering.

Under Platinum Support Service, on-site response is provided without cost. If NMC has chosen Gold Support Service, the next day onsite service will be provided one day after a purchase order is issued (P.O. number provided by NMC on telephone to VENDOR tech support) for the on site labor to VENDOR.

*Complete System Downtime.* A "Complete System Downtime" exists when a key/significant portion of or the entire system is experiencing an outage that precludes critical work from being done (e.g. when the entire systems is inoperable - fetal monitor signal acquisition for display and/or archival or charting are interrupted on a system-wide basis). Other examples include server Software crashes, or database-wide information corruption and incorrect writing of critical fields, or database information corruption for a single patient. Actual repair times will depend upon the nature and description of problem prior to arrival and, related to this, the assumption that diagnosis led to correct parts being brought by the technician, accessibility to system, unit census, etc.

Most software related incidents are resolved using remote connectivity tools. In the event that remote connectivity tools provide to be insufficient to correct a particular software problem, VENDOR personnel will provide on-site service. Notwithstanding the above, all reasonable commercial efforts will be made to resolve a Complete System Downtime (those described in the preceding paragraph) the same day.

*Partial System Downtime*. A "Partial System Downtime" is a condition that constitutes an immaterial defect or error in one or more functions or deployments that do not affect a significant part of or the entire system. Non-exclusive examples would include failure of a single server display, a single room not capturing fetal monitor data, minor deviations that do not result in input/output errors, cosmetic problems, minor bugs, annoyances and misspellings. Cosmetic preferences, such as color choice, do not constitute an error or defect.

Most software related incidents are resolved using remote connectivity tools. In the event that remote connectivity tools provide to be insufficient to correct a particular software problem, VENDOR personnel will provide on-site service within the following business day (not to exceed 48 hours) subject to the requirements of the preceding paragraph.

Notwithstanding the above, all reasonable commercial efforts will be made to resolve critical issues (those described in the preceding paragraph) the same day.

In the event the failure is not system critical, response plans are made to repair the problem within three business days. These types of failures include items that do not affect a significant part of or the entire system (e.g. a single workstation is malfunctioning).

NMC is responsible for routine maintenance. This is typically but not exclusively related to environmental issues such as power, air temperature, filter cleaning, or placement of repair equipment.

<u>ACCESS</u>. Maintenance services are contingent upon VENDOR's ability to obtain remote access to the software programs at the Designated Site as set forth in the Price Quote. NMC's failure to provide such access shall immediately relieve VENDOR of any responsibility to provide maintenance services, other than telephone support or on-site support (at NMC's cost for time, travel, housing), until access is available. NMC shall continuously provide the following equipment and access:

<u>Network Connection</u>. NMC shall provide VENDOR with remote access to the NMC network and servers associated with the software programs in a manner reasonably acceptable to VENDOR and NMC.

<u>Security</u>. NMC shall provide VENDOR with all login names, passwords, network rights and security information required to provide maintenance services. If NMC must change any access provisions, NMC shall immediately notify VENDOR of such changes.

<u>Hardware</u>. NMC shall provide and maintain hardware adequate for the operation of the software programs in safe, environmentally-controlled premises supplied with adequate and constant electrical power. NMC's internet server must be operational at all times and physically accessible to VENDOR's designated staff as necessary.

<u>Physical Access</u>. NMC shall provide access rights to VENDOR including full rights to all software programs, resources and adequate rights to access the server running the software programs. Subject to NMC's standard and reasonable security procedures, if VENDOR is onsite, NMC shall provide VENDOR and its agents physical access to all equipment and software associated with the software programs throughout each term of this Agreement.

<u>Test Environment</u>. NMC acknowledges and agrees that if NMC requests to migrate the Version of the software programs running in its test environment to NMC's production environment, such migration may result in the temporary unavailability of the software programs in NMC's production environment.

<u>VENDOR's 99% PERFORMANCE UPTIME GUARANTEE</u>: If NMC believes that the system performance is not up to expected standards, VENDOR agrees with NMC to carefully track system performance. If requested by NMC in writing, VENDOR will track and quantify system

downtime related to all service calls we receive. When service calls received are closed, an applicable downtime will be defined and quantified (in 1/2 hour increments).

VENDOR expects 99% uptime performance related to the avoidance of Complete System Downtime. In the event that Complete System Downtime exceeds 87.6 hours during the period of a calendar year (99%), for each 24 hours of Complete System Downtime beyond the 87.6 allowable hours, VENDOR will extend the systems warranty (or Support Services Agreement following the warranty period) by 1 month without cost to NMC. VENDOR expects all OBIX Systems to have a reasonable but limited amount of Partial System Downtime. For every 48 hours of Partial System Downtime, VENDOR will add 1 hour towards the total number of annual Complete System Downtime hours.

Above downtime calculations do not apply when VENDOR recommended standards for implementation are not followed. Additionally, they will not apply when the downtime is determined to be the result of any software or hardware items not provided by VENDOR or if NMC infrastructure (networking issues) is determined to be the primary cause of the downtime.



# **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("Agreement"), effective <u>April 1</u>, 20<u>16</u>("Effective Date"), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center ("Covered Entity") and Clinical Computer Systems, Inc. ("Business Associate") (each a "Party" and collectively the "Parties").

Business Associate provides certain services for Covered Entity ("Services") that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity ("PHI"). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the "Privacy Rule"), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the "Security Rule"), under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations ("HITECH"). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 et. seq. apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 et seq. ("CMIA"), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. The Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 ("Red Flag Rules"). This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information ("EPHI"), shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose data breach notification or information security obligations, and it is their further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

### 1. **DEFINITIONS**

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

#### 2. <u>PERMITTED USES AND DISCLOSURES OF PHI</u>

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, <u>provided</u> that such use or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the CMIA; (b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner permitted under 45 C.F.R. § 164.504(e)(4)(ii); provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the persons to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(f) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1);

(g) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R.  $\S$  164.502(d)(1).

#### 3. <u>Responsibilities OF THE PARTIES WITH RESPECT TO PHI</u>

3.1 <u>Responsibilities of Business Associate</u>. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;

(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, within five (5) business days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents

agree to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(e) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity or Business Associate's compliance with the Privacy Rule;

(f) document disclosures of PHI and information related to such disclosure and, within ten (10) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the Covered Entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the Business Associate, the Business Associate shall, within five (5) business days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) subject to <u>Section 4.4</u> below, return to Covered Entity within twenty-one (21) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

(h) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) if all or any portion of the PHI is maintained in a Designated Record Set by Business Associate:

(i) upon ten (10) days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and

(ii) upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;

(j) maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(k) notify the Covered Entity within five (5) business days of the Business Associate's receipt of any request or subpoena for PHI, unless prohibited by law. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge;

(I) maintain a formal security program materially in accordance with all applicable data

security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security

The Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

3.2 Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and

(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within five (5) business days of Business Associate's discovery of such Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.

3.3 <u>Responsibilities of Covered Entity</u>. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

### 4. TERMS AND TERMINATION

4.1 <u>Term</u>. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this <u>Article 4</u>. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in <u>Section 5.1</u> herein.

4.2 <u>Termination</u>. Either Covered Entity or Business Associate may terminate this Agreement and any related agreements if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; <u>provided</u>, <u>however</u>, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

4.3 <u>Automatic Termination</u>. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 <u>Effect of Termination</u>. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

### 5. MISCELLANEOUS

5.1 <u>Survival.</u> The respective rights and obligations of Business Associate and Covered Entity under the provisions of <u>Sections 4.4, 5.1, 5.6, and Section 2.1</u> (solely with respect to PHI that Business Associate retains in accordance with <u>Section 4.4</u> because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, <u>Section 3.1(i)</u> shall survive termination of this Agreement, <u>provided</u> that Covered Entity determines that the PHI being retained pursuant to <u>Section 4.4</u> constitutes a Designated Record Set.

5.2 <u>Amendments; Waiver</u>. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

5.3 <u>No Third Party Beneficiaries</u>. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 <u>Notices.</u> Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to: Clinical Computer Systems, Inc.	
715 Tollgate Road	
Elgin, IL 60213	
Attn:	
Phone:	
Fax:	
If to Covered Entity, to: Natividad Medical Center	
1441 Constitution Blvd.	
Salinas, CA 93906	
Attn: Contracts Division	
Phone: 831-755-4111	
Fax: 831-757-2592	

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

5.5 <u>Counterparts; Facsimiles</u>. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 <u>Choice of Law; Interpretation</u>. This Agreement shall be governed by the laws of the State of California; as <u>provided</u>, <u>however</u>, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

BUSINESS	ASSOCIATEJ
By: Ala	( Rinsel
Print Name:_	MARK W. RUSSELL
Print Title:	VP. FINDNES
Date:	2/19/16

COUNTY OF MONTEREY, ON BEHALF OF				
NATIVIDAD MEDICAL CENTER				
Ву:				
Print Name: Gary Bag				
Print Title: CEO				
Date: 325/16				

# EXHIBIT C

### SOFTWARE LICENSE TERMS & CONDITIONS

These Software License Terms & Conditions shall apply to all Software purchased by NMC from CONTRACTOR.

## 1. <u>GENERAL</u>

These general terms and conditions govern the sale by VENDOR of goods and services included herein and in the Exhibits. NMC may use the Products only at the "Designated Site." For the purposes of this Agreement the term "Designated Site" means the physical location of the facility or facilities indicated by VENDOR in the VENDOR Price Quote as well as via remote access by authorized users and affiliated physician practices. For the purposes of this Agreement, the term "Products" means the Software (as hereinafter defined) and the Miscellaneous equipment sold to NMC under this Agreement (e.g. cables). No addition or modification to these terms and conditions will be binding on either party unless agreed to in writing signed by an authorized representative from each party. Other terms and conditions that may be contained in an invoice, purchase order or other document do not apply.

# 2. PAYMENT TERMS

Payment by NMC for purchase of any additional Software shall be made in accordance with VENDOR's Price Quote. VENDOR reserves the right to suspend any further performance under this Agreement in the event payment is not made within sixty (60) days of due date. No payment by offset is permitted unless approved by VENDOR in a signed writing.

# 3. <u>DELIVERY TERMS</u>

Delivery terms are prepay and add with respect to shipping costs and FOB Destination with respect to risk of loss and title transfer, except that title to all intellectual property rights associated with the Products (e.g., software and other proprietary rights) remains with VENDOR (or its suppliers and licensors), and such Products are made available or licensed only for use by NMC pursuant to this Agreement. NMC is responsible for all stolen, lost or damaged items subsequent to delivery and such items will be replaced only at NMC's expense. Acknowledged shipping dates are approximate only and based on prompt receipt of all necessary information from NMC.

# 4. SOFTWARE LICENSE

4.1 VENDOR software programs shall be referred to herein as the "Software". The Software incorporates application programs copyrighted and/or licensed by VENDOR. Use of VENDOR's Software constitutes acceptance of the terms and conditions herein. VENDOR hereby grants and NMC hereby accepts upon the terms and conditions set forth herein, a limited non-transferable, non-assignable, nonexclusive license for the use of the Software and Documentation (the "License") in the quantities, subject to the birth per year limitations set forth in VENDOR's Price Quote. "Documentation" means i.e. the user manuals, training aids, installation guides, and technical documents with respect to the Software.

4.2 Subject to the terms of this Agreement, this License authorizes NMC and its employees and authorized agents to use the Software for NMC's internal operations but only in machine-readable form; and only at the Designated Site. If not otherwise purchased from VENDOR, NMC will be responsible for the purchase, installation and support of any hardware and third party software necessary to operate the Software.

The copyright, the ideas and expressions thereof contained in the Software and all 43 physical embodiments thereof, and materials supplied hereunder in connection therewith and all registered or unregistered trademarks related to the Software are acknowledged by NMC to be confidential and proprietary information owned by VENDOR. No ownership in, or title to, the Software or any intellectual property rights related thereto is transferred to NMC and NMC has no interest in or right to use the Software or such proprietary information or materials except in accordance with the terms of the license granted in this Agreement, NMC, its employees, contractors, and agents may not modify, enhance, update or create derivative works from the Software or permit others to do so. NMC, its employees, contractors, and agents may not translate, reverse engineer, reverse compile, reverse assemble or otherwise attempt to discern the source code or create derivative works of the Software or permit others to do so. All changes, modifications or improvements made or developed with regard to the Software by VENDOR, whether or not made or developed at NMC's request and any of the foregoing made by NMC, its employees, contractors, and agents even though not permitted hereby, shall remain the property of VENDOR. NMC hereby assigns all its rights to such changes, modifications, and improvements to VENDOR. NMC shall have the right to use any such changes, modifications, and improvements that are delivered to NMC by VENDOR pursuant to the terms of this Agreement. NMC agrees that it will not provide or make available to other than those of its employees and contractors required to use the Software in its business, the Software, or any part thereof, including any physical embodiment thereof, or any material supplied by VENDOR in connection therewith, including, but not limited to, flowcharts, logic diagrams and object or source code, in any form. NMC shall take all reasonable steps necessary to protect the confidentiality of the Software and all other information or products supplied to NMC by VENDOR and shall be responsible for any breach of confidentiality or the other provisions of this Section 4.3 by its employees, contractors, and agents. NMC agrees to notify its employees, contractors, and agents who have access to the Software and other material provided in connection therewith of the confidentiality obligations herein and shall require such persons to agree to keep such Software and information confidential. NMC will not remove, or permit to be removed, from any item included in the Software or any materials related thereto any proprietary, confidential, or copyright notices, markings, or legends placed thereon by VENDOR.

4.4 <u>Implementation Software; Backups; User's Manuals</u>. At the time of installation, VENDOR will provide NMC with one machine-readable version of the Software for implementation purposes. Such Software will be provided in a machine-readable form (optical, hard disk, ftp, etc.). NMC may create copiesof the Software for backup purposes. The original and any copies (in whole, or in part) of the Software provided or made under this Agreement shall remain the property of VENDOR.

For disaster recovery purposes, NMC is encouraged to back up the Software on all client machines.

NMC may copy the User's Manuals provided by VENDOR in such quantities as reasonably may be required for operation of the Software within the scope of this Agreement but shall keep the same confidential as required by Section 4.3 hereof.

4.5 Infringement. VENDOR shall defend any action brought against NMC to the extent that it is based on a claim that the Software, used within the scope of the License granted hereunder, infringes a copyright or other intellectual property right in the United States. VENDOR agrees to indemnify and hold NMC harmless from any and all costs and damages awarded against NMC in any such action provided NMC notified VENDOR promptly in writing of the claim. It is agreed further that in the event of alleged infringement of a copyright or other intellectual property right in the United States arising out of the use of the Software used within the scope of the License granted hereunder, VENDOR will participate fully in, be responsible for and control the defense and/or settlement of such claims at VENDOR's sole discretion. In the event of a claim or infringement of a copyright or other intellectual property right in the United States associated with the use of the Software, VENDOR, at its option, may procure for NMC the right to continue using the Software or may replace or modify the same to make it non-infringing. In the event VENDOR is unable to provide one of the foregoing remedies, NMC shall return to VENDOR the Software and related Documentation and, subject to the other limitations, qualifications and conditions herein, VENDOR shall refund to NMC a pro-rata amount paid by NMC for the Software based upon a 5-year depreciation. VENDOR shall have no liability for any claim of copyright infringement if (1) such infringement would be avoided had NMC loaded the latest release of the Products with equivalent functionality and performance made available to NMC at that time, or (2) if such infringement is related to the use of VENDOR's Software with other software or data not provided by VENDOR and such infringement would be avoided by using the Software alone, or (3) if the Software has been modified by a party other than VENDOR, or (4) such infringement is based upon the use of the Software in violation of this Agreement. This paragraph states the entire liability of VENDOR with respect to infringement of any copyrights or other intellectual property right by the Software or any parts thereof, and VENDOR shall have no liability with respect to any other intellectual property rights.

# 5. ACCEPTANCE OF INSTALLATION

At the time the Software is available to NMC in the production environment ("Installation"), NMC shall complete its "Acceptance of Installation" as set forth below. Acceptance of Installation shall occur following thirty (30) Error Free Run Days. For these purposes "Error Free Run Days" means that the Software operates for thirty (30) consecutive days without an "Error" as hereinafter defined. All acceptance tests will be executed at NMC's site on hardware and equipment as configured by VENDOR. Errors uncovered by NMC shall be documented and submitted to VENDOR for corrections. All corrections of Errors shall be made within thirty (30) days, except as otherwise agreed to by NMC and VENDOR. VENDOR shall notify NMC when such corrections have been made and NMC shall commence retesting of the Software and complete such retesting as soon as possible, but no later than ten (10) days after NMC has been

notified of such corrections. If, after such period, the Software runs for thirty (30) consecutive days without an Error, NMC shall accept the OBIX System. If the Software still fails to pass the acceptance test, NMC shall notify VENDOR in writing and VENDOR shall have an additional thirty (30) days to correct such errors. If, after such period, the Software runs for thirty (30) consecutive days without an Error, NMC shall accept the OBIX System. An "Error" means an item or items that cause the OBIX System not to perform in conformity with VENDOR's standard marketing information. Expressly excluded from the definition of Error are (a) cosmetic items or minor deviations that do not result in input/output errors; and (b) errors caused by external factors such as hardware performance issues or failures, communications interruption, NMC operator error, or other items outside the direct control of VENDOR that affect the way the OBIX System performs.

# 6. <u>WARRANTY</u>

# 6.1 OBIX Software Warranty

(a) VENDOR warrants that the Software will perform in accordance with VENDOR's published User Manual prepared and issued by VENDOR during the Included Support Term as set forth in the Price Quote (the "Warranty Period"). For these purposes, Included Support Term begins at Acceptance of Installation. VENDOR warrants that it has the right to confer the license of the Software.

(b) NMC shall remain fully responsible for the accuracy of information obtained from the use of the Software, and the use of such information.

6.2 <u>Service</u>. VENDOR warrants that during the Included Support Term services provided under Section 7 hereof, will be performed in a diligent and workmanlike manner by individuals of suitable training and skill in accordance with generally accepted industry practices. Such warranty terminates at the end of the Included Support Term as defined in the Price Quote. Thereafter, services and any warranty with respect thereto will be provided pursuant to the Support Services Agreement. Fetal monitor interconnect cables and/or other equipment listed under Miscellaneous in the Price Quote, if any, are considered consumables and are not covered by this warranty. All other warranties relative to provided services are disclaimed.

6.3 <u>NMC Specifications</u>. VENDOR does not warrant and will not be liable for any design, materials, or construction criteria furnished or specified by NMC and incorporated into the Products or for Products made by or sourced from other manufacturers or vendors specified by NMC. Any warranty applicable to such NMC-specified products will be limited solely to the warranty, if any, extended by the original manufacturer or vendor other than VENDOR to the extent permissible thereunder.

6.4 <u>Remedies</u>. Satisfaction of the above warranties and any other claim regarding the Product will be limited, at VENDOR's option, to the replacement, repair, correction or modification of the Products, or issuance of a credit for the purchase price of the Products involved, and where applicable, only after the return of such Products with VENDOR's written consent.

6.5 General. Warranty satisfaction is available and the Support Services need to be performed, only if (a) VENDOR is promptly notified in writing; and (b) any alleged defect has not been caused by (i) misuse, abuse, neglect, movement, improper or unauthorized installation, operation, maintenance, repair, alteration or modification of the Products by NMC, its employees, agents, contractors, representatives, invitees or any other persons engaged by NMC other than VENDOR and its contractors; (ii) failure to follow the manufacturer's or VENDOR's installation, operation or maintenance instructions as provided in the manuals previously delivered to NMC (On-Site Technical Reference Manual, Site Preparation Manual, OBIX User Manual, and On-Site Clinical Education Manual); (iii) use of hardware that does not comply with VENDOR's hardware configuration as described in the On-Site Technical Reference Manual; or (iv) accident, or unusual deterioration or degradation of the Products or parts thereof due to physical environment or electrical or electromagnetic noise environment or by power failure, surge or fluctuations or air conditioning failure; or (v) safety and performance monitoring programs (e.g. anti-virus software) not installed by VENDOR that degrades the performance of VENDOR's Products; or (c) NMC is not in a material breach under this Agreement.

6.6 THE ABOVE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, OR PERFORMANCE OR APPLICATION WARRANTIES OR ARISING FROM THE COURSE OF DEALING BETWEEN THE PARTIES OR USAGE OF TRADE, AND EXTEND ONLY TO NMCS PURCHASING FROM VENDOR OR ITS APPOINTED DISTRIBUTOR.

# 7. <u>SUPPORT SERVICES</u>

For the Included Support Term, VENDOR shall provide NMC with the support services equivalent to the Platinum Support Services set forth in the Support Services Agreement. After the Included Support Term any extended services shall be provided to NMC pursuant to the Agreement.

8. <u>LIMIT OF LIABILITY</u> Intentionally deleted.

# 9. MEDICAL DECISION MAKING

NMC acknowledges that the Products are a comprehensive system for central, bedside and remote Electronic Fetal Monitoring ("EFM") that includes archiving, point-of-care charting, single-click management reports and internet-based physician access. NMC acknowledges and agrees that the Products do not make diagnoses; rather the Products are only a tool to assist a competent medical professional in the provision of such medical professional's services. The Products are not a substitute for clinical assessment diagnosis and treatment by a licensed medical professional. NMC is solely responsible for the correct utilization of the Products and any medical decisions made in relation thereto are exclusively the responsibility of NMC. The parties agree that VENDOR does not provide medical services to patients and that NMC's use of the Products does not affect NMC's obligations to exercise independent medical judgment in rendering health care services to patients. VENDOR shall have no responsibility as a result of

this Agreement for decisions made or actions taken or not taken in rendering medical care or for information provided to insurance companies, governmental agencies or other payors. NMC acknowledges and agrees that NMC and its end users (i) shall not rely upon the Products (including, but not limited to, output in the form of data) if NMC or its end users know or should know that the Products are operating in a manner that could have a material negative impact on patient care; (ii) shall not rely upon the Products as the sole means of communicating life threatening or critically important results, such as lab, pathology or radiology results, and (iii) shall remain fully responsible for the use of information obtained from the software. NMC shall defend, indemnify and hold VENDOR harmless from and against all claims, liabilities and expenses (including attorney's fees) related to any claims with respect to the matters set forth in this Section, including, but not limited to, negligence or malpractice claims arising out of or resulting from the use or non-use of the Products by NMC or any of its agents or employees.

# 10. PHYSICAL PREMISES

NMC assumes the costs of providing any modifications to the building services (e.g. power, cooling, cabling) necessary to accommodate the installation and operation of the Products. NMC insures that the necessary connection features are available to enable its fetal heart monitors to be connected via digital interface to VENDOR's OBIX<sup>™</sup> System. In addition, NMC shall install the wiring and other physical site requirements necessitated by VENDOR's specifications in accordance with the On-Site Technical Reference Manual and Site Preparation Manual as previously provided to NMC.

# 11. QUOTATIONS

Written quotations are valid for the time period defined in the Price Quote. Verbal quotations expire the same day they are made. All typographical and clerical errors are subject to correction.

# 12. <u>PRICES</u>

Prices and other information shown in any VENDOR publication (including product catalogs and brochures) are subject to change without notice and confirmation by specific quotation. Such publications are not offers to sell and are maintained only as a source of general information. NMC will pay or reimburse VENDOR for all sales, use, excise or similar taxes assessed in connection with NMC's purchase or license of the Products. In lieu thereof, NMC shall provide VENDOR with a tax-exemption certificate in a form acceptable to the appropriate taxing authorities.

# 13. <u>CHANGES</u>

NMC-related order changes, including those affecting the identity, scope and delivery of the Products, must be documented in writing and are subject to VENDOR's prior written approval and adjustments in price, scheduling, and other affected terms and conditions. In any event, VENDOR reserves the right to reject any change that it deems unsafe, technically inadvisable, or inconsistent with established engineering or quality guidelines and standards, or incompatible with VENDOR's design or manufacturing capabilities.

# 14. <u>RETURNS</u>

All returns of Products will be subject to prior VENDOR written approval. Nonwarranty returns of unused and salable Products for credit will be subject to VENDOR's return policies equal to fifteen percent (15%) of the sale price of the Products plus demonstrated sales costs. Products returned under warranty must be properly packed and shipped to VENDOR-specified locations. Shipping containers must be clearly marked per VENDOR's instruction and shipped freight prepaid by NMC.

# 15. ORDER CANCELLATION

An order may be cancelled by NMC prior to shipment only by written notice and upon payment to VENDOR of cancellation and restocking charges equal to fifteen percent (15%) of the sales price plus demonstrated sales costs. Cancellation charges associated with orders for custom Products or Products specifically processed to NMC's specification may equal the actual selling price of the Products.

# 16. FORCE MAJEURE

Except with respect to NMC's payment obligations hereunder, if either party is prevented, hindered or delayed in the performance or observance of any of its obligations under this Agreement by reason of a causes beyond its reasonable control, including without limitation, accident, fire, lightning, water, flood, tornado, windstorm, hail, earthquake, explosion, smoke, aircraft, epidemics, quarantines, restrictions, motor vehicle, collapse of building, strike or labor dispute, acts of God, the elements of war, acts of terrorism, civil disturbances, acts of civil or military authorities or the public enemy, pest damage, riot, vandalism, power failure, surge or fluctuations, air conditioning failure or malfunction, delays in transportation, inability to secure parts or raw materials, transportation facilities, fuel or energy shortages or any act or omission of communications carriers ("Force Majeure Event"), that party will be excused from any further performance or observance of the obligations so affected for as long as such Force Majeure Event prevails and that party continues to use all commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. The party affected by a Force Majeure Event will advise the other party in reasonable detail of the Force Majeure Event (including the estimated duration of the Force Majeure Event) as promptly as practicable (and in any event within three (3) Business days after occurrence of the Force Majeure Event) and keep the other party reasonably apprised of progress in resolving the Force Majeure Event. In the event of any such delay, performance date(s), due dates and deadlines will be extended for that length of time as may be necessary to compensate for the delay.

# 17. GOVERNMENT CLAUSES AND CONTRACTS

No government contract regulations or clauses will apply to the Products or this Agreement or act to bind VENDOR unless specifically agreed to by VENDOR in writing at VENDOR's headquarters.

# 18. EXPORT CONTROL

Products and associated materials supplied or licensed under this Agreement may be subject to various export laws and regulations. It is the responsibility of the exporter to comply with all such laws and regulations. NMC agrees that it will not export the Products.

# 19. <u>DISPUTES</u>

The parties will attempt in good faith promptly to resolve any dispute arising out of this Agreement by negotiations between representatives who have authority to settle the controversy. If unsuccessful, the parties further will attempt in good faith to settle the dispute by nonbinding third-party mediation, with fees and expenses of such mediation apportioned equally to each side. Any dispute not so resolved by negotiation or mediation may then be submitted to a court of competent jurisdiction in accordance with the terms of this Agreement. These procedures are the exclusive procedures for the resolution of all such disputes between the parties. Notwithstanding the foregoing, this Section shall not apply to issues for which a party can or does seek injunctive relief.

# 20. CHOICE OF LAW; EXCLUSIVE JURISDICTION

The validity, construction and enforcement of this Agreement shall be determined in accordance with the laws of the State of California, without reference to its conflicts of laws principles. Any action (whether by arbitration or in court) arising under this Agreement shall be brought exclusively in the state and federal courts located in the State of California.

### 21. ASSIGNMENT

See Section 15.6 of the Agreement.

## 22. <u>LANGUAGE</u>

The parties acknowledge that they have required that this Agreement be drawn up in English. In the event of a conflict between the English and other language versions of this Agreement, the English version will prevail.

### 23. HIPAA BUSINESS ASSOCIATES PROVISIONS

If VENDOR is a "Business Associate" of NMC within the meaning of the privacy regulations under HIPAA, the parties agree that their activities hereunder shall be consistent with the Business Associate Agreement attached as <u>Exhibit B</u>, which shall govern any conflict or inconsistency with this Agreement.

# 24. <u>NOTICE</u>

See Section 14 of the Agreement.

# 25. <u>NMC'S OTHER OBLIGATIONS</u>

25.1 <u>Installation, Education and Related Obligations</u>. NMC's obligations for installation, education and additional details are set forth in VENDOR's On-Site Technical Reference Manual, Site Preparation Manual, OBIX User Manual, and the On-Site Clinical Education Manual as the same may be amended or restated from time to time. NMC agrees to comply with such obligations. NMC agrees to report to VENDOR in writing the number of births per year at NMC's Designated Site upon each anniversary

date of the date of this Agreement or VENDOR may obtain the information from an outside source if not provided by NMC.

25.2 <u>VPN Access</u>. NMC and VENDOR shall mutually work together to provide VENDOR with Virtual Private Network (VPN) access at the start of any implementation process. If NMC fails to provide VPN access within such time period or if NMC removes VPN access while the Products are under warranty or support, VENDOR may be unable to provide support until access is restored.

25.3 <u>Email Functionality</u>. NMC shall provide VENDOR with inbound and outbound email functionality at the start of any implementation process. This functionality allows VENDOR Product to communicate and provide error logs to NMC and VENDOR. If NMC fails to provide email functionality within such time period or if NMC removes email functionality while the Products are under warranty or support, VENDOR may be unable to provide support until functionality is restored.

25.4 <u>External Firewall Port</u>. NMC shall provide VENDOR with a defined external firewall port at the start of any implementation process.

25.5 <u>Vendor Credentialing</u>. NMC agrees to reimburse VENDOR promptly upon submission to NMC for all costs incurred by VENDOR associated with NMC-required vendor credentialing of VENDOR's employees.

# 26. DEFAULT AND TERMINATION

Either party shall be in default of its obligations under this Agreement in the event of (a) nonperformance of any of its covenants, obligations, or liabilities contained or referred to in this Agreement or attached exhibits, such non-performance has not been cured within thirty (30) days, except that any non-payment default which must be cured within fifteen (15) days, following written notice to the other party; (b) such party's cessation of business operations; or (c) dissolution, insolvency, appointment of a receiver, assignment for the benefit of creditors or the commencement of any proceedings under any bankruptcy or insolvency laws by or against such party. Remedies of the parties are subject to the limitations set forth in this Agreement, in the event of default by either party, the other party shall have the right to exercise any remedy available at law.

Upon termination of this Agreement for any reason or in the event NMC has procured and placed into production alternative software to supplant VENDOR's Software, the License to the Software shall immediately terminate and NMC shall cease the use of the Software or any part of it and shall delete the same. At VENDOR's request, NMC shall provide VENDOR with a written certification that NMC has ceased the use of the Software except as provided herein, executed by a duly authorized officer of NMC.

NMC acknowledges that any breach of its obligations under this Agreement might cause irreparable harm for which there is no adequate remedy at law. Accordingly, NMC agrees that, upon any breach of this Agreement, VENDOR is entitled to injunctive and other equitable relief, without the need to post any bond, in addition to such remedies as may be available at law.

# 27. MISCELLANEOUS

27.1 <u>Purchase Orders For Multiple Hospitals</u>. In the event NMC is delivering purchase order(s) pursuant to multiple Price Quotes for multiple hospitals or facilities, VENDOR and NMC agree that they intend the provisions of this Agreement to apply to each hospital/facility on an individual and separate basis with respect to the purchase order, and/or Price Quote, applicable thereto. If a purchase order is received in the future from an affiliated facility, the Adoption Agreement Form will be executed by the facility so that the terms and conditions herein will apply.

27.2 <u>Representation of Power</u>. In the event NMC is delivering multiple purchase orders pursuant to multiple Price Quotes for multiple hospitals, NMC hereby represents and warrants that (i) it has the power to enter into this Agreement on behalf of each such hospital; and (ii) this Agreement is enforceable against each such hospital in accordance with its terms.

27.3 Debarment Certification. VENDOR represents and warrants to NMC that (a) VENDOR is not excluded from any federal health care program, as defined under 42 USC §1320a-7b(f), for the provision of items or services for which payment may be made under a federal healthcare program; (b) to its knowledge, no basis for exclusion from any health care program exists; (c) VENDOR has not arranged or contracted (by employment or otherwise) with any employee, contractor or agent that VENDOR knows are excluded from participation in any federal health care program; and (d) no final adverse action, as such term is defined under 42 USC §1320a-7e(g), has occurred or is pending or threatened against VENDOR or to VENDOR's knowledge against any employee, contractor or agent engaged to provide items or services under this Agreement (collectively "Exclusions/Adverse Actions"). VENDOR, during the term of the Agreement, shall notify NMC of any Exclusions/Adverse Actions or any basis thereof within fifteen (15) days of its learning of any such Exclusions/Adverse Actions or any basis therefore.

# 28. <u>AMENDMENT</u>

See Section 15.2 of the Agreement.

# 29. <u>NO WAIVER</u>

See Section 15.3 of the Agreement.

# 30. <u>SEVERABILITY</u>

If any portion of this Agreement is found to be invalid or unenforceable, the parties hereto agree that the remaining portions shall remain in full force and effect. The parties hereto further agree that in the event such invalid or unenforceable portion is an essential part of this Agreement, if reasonable, they will immediately begin good faith negotiations for a replacement provision.

# 31. COUNTERPARTS

See Section 15.14 of the Agreement.

# 32. CONFIDENTIAL INFORMATION

32.1 During the Term of this Agreement, VENDOR and NMC may have access to the other's Confidential Information. "Confidential Information" means information that either party may consider to be confidential and/or a trade secret, including, but not limited to, preexisting NMC information, patient information, technical know-how, technical specifications, software code, manners of conducting business and operations, strategic business plans, systems, results of testing, financial information, NMC lists and other information about NMCs, product information, concepts, and compilations of data and any other information given from one party to the other. The contents of this Agreement shall be deemed Confidential Information.

32.2 Each party will use the other's Confidential Information only to perform its obligations under, or for purposes related to, this Agreement. Neither party will use the other's Confidential Information for the benefit of a third party. Each party: (a) will maintain the confidentiality of the other's Confidential Information in the same manner in which it protects its own information of like kind, but in no event will either party take less than reasonable precautions to prevent the unauthorized use or disclosure of the Confidential Information only to its employees, agents, contractors, consultants, auditors and subcontractors on a need to know basis, provided that all such agents, contractors, consultants, auditors and subcontractors have written confidentiality obligations to that party at least as restrictive as those in this Agreement; and (c) is responsible for any unauthorized disclosure or use of, or access to, the other party's Confidential Information.

32.3 The confidentiality provisions of this Agreement do not apply to information that is entirely in the public domain other than through fault of the party against whom this section is enforced; was known to the party prior to access to the information through no breach of any obligation of confidentiality; was received lawfully from a third party through no breach of any obligation of confidentiality owed to the other party; is created by that party's employees independently of the other party's Confidential Information; or is required to be disclosed or pursuant to court order, legal regulation or applicable law, provided written notice is given to the other party of such requirement as soon as practicable and reasonable assistance is rendered to the other party, if requested, at the other party's expense, to limit such disclosure to the minimum required by such court order, legal regulation or applicable law. The parties agree that this Agreement and all attachments and exhibits to the Agreement are subject to disclosure under the California Public Records Act (the "PRA"), unless exempt by law thereto, and do not require advance written notice prior to disclosure pursuant to a valid PRA request.

32.4 The provisions of this Section will survive termination of this Agreement and will inure to the benefit of the parties and their successors and assigns.

# 33. <u>PUBLICITY</u>

Neither party will use the other party's name, trademarks or service marks or refer to the other party directly or indirectly in any NMC list, advertising, promotional materials, media release,

public announcement or public disclosure relating to this Agreement or its subject matter to the extent the materials in such media release, announcement or disclosure have not previously been made publicly available, without the other party's prior written permission to do so.

# 34. <u>SURVIVAL</u>

Any terms of this Agreement that would, by their nature, survive expiration or termination of this Agreement (including, but not limited to, any rights of VENDOR to payment obligations by NMC for an uncured default) will so survive, including, without limitation, all provisions relating to ownership, indemnification, confidentiality, privacy and limitations of liabilities.



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-043

Item No.16

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021

Version: 1

Current Status: Natividad Medical Center -Consent Matter Type: BoS Agreement

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement (A-14062) with Modular Devices, Inc. for the continued lease of a mobile angiography/interventional radiology lab (IR) unit and a mobile magnetic resonance imaging (MRI) unit at NMC, with no change to the term of the agreement, and adding \$477,000 for a revised total agreement amount not to exceed \$4,262,000.

# **<u>RECOMMENDATION</u>**:

# It is recommended the Board of Supervisors:

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement (A-14062) with Modular Devices, Inc. for the continued lease of a mobile angiography/interventional radiology lab (IR) unit and a mobile magnetic resonance imaging (MRI) unit at NMC, with no change to the term of the agreement, and adding \$477,000 for a revised total agreement amount not to exceed \$4,262,000.

# **SUMMARY/DISCUSSION:**

NMC entered into a lease agreement with Modular Devices back in 2013 to provide a Mobile Computerized Tomography (CT) laboratory, a mobile Angiography/Interventional Radiology (IR) Laboratory services and a Magnetic Resonance Imaging (MRI) mobile unit to enhance the imaging capabilities in the Diagnostic Imaging Department while the Imaging Department was undergoing a significant modernization project.

NMC began construction in the main Radiology department in October 2018. The department must remain operational during the construction project. Natividad needs the mobile trailers to be able to offer full radiology services during the construction process. Unfortunately, the construction project has taken longer than anticipated due to COVID-19, and the hospital needs to add money to the lease agreements for the mobile units (MRI and IR) through the end of June 2021.

The cost of the agreement is broken down into the following equipment leases: the monthly lease for the Mobile Angiography is \$31,500 or \$378,000 annually; and the monthly least for the Mobile MRI is \$48,000 or \$576,000 annually.

# **OTHER AGENCY INVOLVEMENT:**

The Office of County Counsel has reviewed and approved this amendment No. 2 as to form, and the Auditor-Controller has reviewed and approved as to payment provisions. This amendment No. 2 has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on February 12, 2021.

# FINANCING:

The cost for this amendment No. 2 is \$477,000, which is included in the Fiscal Year 2020-21 Adopted Budget.

# **BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This agreement will support the County strategic initiative for Health and Human Services by offering advanced radiology procedures (MRI and IR) to the residents of Monterey County while the Radiology Department is undergoing construction. These mobile trailers will ensure that services are not interrupted during the construction project.

- \_\_ Economic Development
- Administration
- X Health and Human Services
- \_\_\_ Infrastructure
- \_\_\_\_ Public Safety

Prepared by: Andrea Rosenberg, Assistant Administrator, 783-2562 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2504

Attachments:

Modular Devices Inc. Amendment No. 2 Modular Devices Inc. Amendment No. 1 Modular Devices Inc. Agreement

Attachments on file with the Clerk of the Board



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-043

Item No.

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021 Version: 1 Current Status: Agenda Ready Matter Type: BoS Agreement

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# **<u>RECOMMENDATION</u>**:

# It is recommended the Board of Supervisors:

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NMC began construction in the main Radiology department in October 2018. The department must remain operational during the construction project. Natividad needs the mobile trailers to be able to offer full radiology services during the construction process. Unfortunately, the construction project has taken longer than anticipated due to COVID-19, and the hospital needs to add money to the lease agreements for the mobile units (MRI and IR) through the end of June 2021.

The cost of the agreement is broken down into the following equipment leases: the monthly lease for the Mobile Angiography is \$31,500 or \$378,000 annually; and the monthly least for the Mobile MRI is \$48,000 or \$576,000 annually.

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- \_\_\_ Economic Development
- Administration
- X Health and Human Services
- \_\_\_ Infrastructure
- \_\_\_ Public Safety

Prepared by: Andrea Rosenberg, Assistant Administrator, 783-2562 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2504

Attachments:

Modular Devices Inc. Amendment No. 2 Modular Devices Inc. Amendment No. 1 Modular Devices Inc. Agreement

Attachments on file with the Clerk of the Board

Dr. Gary R. Gray Dr. Gary R. Gray, Chief Executive Officer

<u>2/19/21</u> Date



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-043

Item No.

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021 Version: 1 Current Status: Agenda Ready Matter Type: BoS Agreement

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# **<u>RECOMMENDATION</u>**:

# It is recommended the Board of Supervisors:

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# **SUMMARY/DISCUSSION:**

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The cost of the agreement is broken down into the following equipment leases: the monthly lease for the Mobile Angiography is \$31,500 or \$378,000 annually; and the monthly least for the Mobile MRI is \$48,000 or \$576,000 annually.

# **OTHER AGENCY INVOLVEMENT:**

The Office of County Counsel has reviewed and approved this amendment No. 2 as to form, and the Auditor-Controller has reviewed and approved as to payment provisions. This amendment No. 2 has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on February 12, 2021.

## FINANCING:

The cost for this amendment No. 2 is \$477,000, which is included in the Fiscal Year 2020-21 Adopted Budget.

### **BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This agreement will support the County strategic initiative for Health and Human Services by offering advanced radiology procedures (MRI and IR) to the residents of Monterey County while the Radiology Department is undergoing construction. These mobile trailers will ensure that services are not interrupted during the construction project.

- \_\_\_ Economic Development
- \_\_\_\_ Administration
- X Health and Human Services
- \_\_\_ Infrastructure
- \_\_\_ Public Safety

Prepared by: Andrea Rosenberg, Assistant Administrator, 783-2562 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2504

Attachments:

Modular Devices Inc. Amendment No. 2 Modular Devices Inc. Amendment No. 1 Modular Devices Inc. Agreement

Attachments on file with the Clerk of the Board

Dr. Gary R. Gray Dr. Gary R. Gray, Chief Executive Officer

<u>2/19/21</u> Date

### AMENDMENT NO. 2 TO EQUIPMENT LEASE AGREEMENT BETWEEN MODULAR DEVICES, INC. AND NATIVIDAD MEDICAL CENTER FOR LEASE OF RADIOLOGY TRAILERS

This Amendment No. 2 to the Equipment Lease Agreement ("Lease") which was effective on August 1, 2018 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"), and Modular Devices, Inc. (hereinafter "CONTRACTOR"); (collectively, the County, NMC and CONTRACTOR are referred to as the "Parties"), with respect to the following:

### RECITALS

WHEREAS, the Lease was executed for the lease of a mobile computerized tomography (CT) unit, a mobile angiography interventional radiology lab (IR) unit, and a mobile magnetic resonance imaging (MRI) unit with a term of August 1, 2018 through July 31, 2020 and a total Lease amount not to exceed \$2,868,000; and

WHEREAS, NMC and CONTRACTOR amended the Lease on June 9, 2020 via Amendment No. 1 to extend the term for an additional eleven (11) month period through June 30, 2021 to allow for services to continue and to add an additional \$917,000 thereby increasing the total Lease amount to \$3,785,000; and

WHEREAS, NMC and CONTRACTOR currently wish to amend the Lease to add \$477,000 for the continued use of the IR and MRI units through June 30, 2021 for a revised total Lease amount of \$4,262,000, with no change to the term of the Lease.

### AGREEMENT

NOW, THEREFORE, the Parties agree to amend the Lease as follows:

1. Section 2. Section 2 to the Lease is hereby amended and restated to read in its entirety as follows:

"2. TERM AND TOTAL AMOUNT PAYABLE. The term of this Lease is August 1, 2018 ("Effective Date") through June 30, 2021. The total amount payable by NMC to CONTRACTOR under this Lease shall not exceed the sum of \$4,262.000."

- 2. Except as provided herein, all remaining terms, conditions and provisions of the Lease are unchanged and unaffected by this Amendment No. 2 and shall continue in full force and effect as set forth in the Lease.
- 3. A copy of this Amendment No. 2 shall be attached to the Lease.
- 4. This Amendment No. 2 shall be effective when signed by the last party.

The remainder of this page was intentionally left blank.

~ Signature page to follow ~

**IN WITNESS WHEREOF,** the Parties hereto are in agreement with this Amendment No. 2 on the basis set forth in this document and have executed this Amendment No. 2 on the day and year set forth herein.

# NATIVIDAD MEDICAL CENTER **CONTRACTOR** By: \_\_ Modular Devices, Inc. Gary R. Gray, DO, CEO **CONTRACTOR's Business Name** \*\*See instructions below\*\*\* Date: \_\_\_\_\_ By: (Signature of: Chair, President, or Vice-President) **APPROVED AS TO LEGAL PROVISIONS** CEO Name and Title By: 1-5-2021 Monterey County Deputy County Counsel Date: 1/13/2021 Date: By: Ignature of: Secretary, Asst. Secretary, CFO, APPROVED AS TO FISCAL PROVISIONS Treasurer, or Asst. Treasurer) S Giboney By: Monterey County Deputy Auditor/Controller Name and Title 1-13-2021 Date: Date: \*\*\*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 (two signatures required).

**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 (two signatures required).

**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 (one signature required).

Legistar File ID No. A 20-125 Agenda Item No. 15



# Monterey County Board of Supervisors

# **Board Order**

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

# Agreement No.: A-14062, Amendment No. 1

Authorize the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute amendment No. 1 to the agreement (A-14062) with Modular Devices, Inc. for the lease of a mobile computerized tomography (CT) unit, a mobile angiography/interventional radiology lab (IR) unit, and a mobile magnetic resonance imaging (MRI) unit at NMC, extending the agreement an additional eleven (11) month period (August 1, 2020 through June 30, 2021) for a revised full agreement term of August 1, 2018 through June 30, 2021, and adding \$917,000 for a revised total agreement amount not to exceed \$3,785,000.

PASSED AND ADOPTED on this 9th day of June 2020, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting June 9, 2020.

Dated: June 9, 2020 File ID: A 20-125 Agenda Item No.: 15 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Joel Pablo

oel G. Pablo, Deputy

Agreement A-14062

#### AMENDMENT NO. 1 TO SERVICES AGREEMENT BETWEEN MODULAR DEVICES, INC. AND NATIVIDAD MEDICAL CENTER FOR LEASE OF RADIOLOGY TRAILERS

This Amendment No. 1 to the Services Agreement ("Agreement") which was effective on August 1, 2018 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"), and Modular Devices, Inc. (hereinafter "CONTRACTOR"); (collectively, the County, NMC and CONTRACTOR are referred to as the "Parties"), with respect to the following:

### RECITALS

WHEREAS, the Agreement was executed for the lease of a mobile computerized tomography (CT) unit, a mobile angiography interventional radiology lab (IR) unit, and a mobile magnetic resonance imaging (MRI) unit with a term of August 1, 2018 through July 31, 2020 and a total Agreement amount not to exceed \$2,868,000; and

WHEREAS, NMC and CONTRACTOR currently wish to amend the Agreement to extend it for an additional eleven (11) month period through June 30, 2021 to allow for services to continue with no additions to the original scope of work with a \$917,000 increase for the added services for a total Agreement amount of \$3,785,000.

#### AGREEMENT

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the Original Agreement incorporated herein by this reference, except as specifically set forth below.

- Section 2 / Paragraph titled, "TERM" shall be amended to the following: "TERM – The term of this Lease is August 1, 2018 ("effective Date") through June 30, 2021."
- 2. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment No. 1 and shall continue in full force and effect as set forth in the Agreement.
- 3. A copy of this Amendment No. 1 shall be attached to the Agreement.
- 4. This Amendment No. 1 shall be effective when signed by the last party.

The remainder of this page was intentionally left blank.

~ Signature page to follow ~

**IN WITNESS WHEREOF,** the Parties hereto are in agreement with this Amendment No. 1 on the basis set forth in this document and have executed this Amendment No. 1 on the day and year set forth herein.

NATIVIDAD MEDICAL CENTER	CONTRACTOR
By:Gary R. Gray DO, CEO Date:	Modular Devices, Inc. CONTRACTOR's Business Diame ***See instructions below By: (Signature of: Chair, President, or Vice-President)
By: Monterey County Deputy County Counsel	<u><u><u>P</u>245, IS EAFT</u> Name and Title Date: <u><u>3-10-2020</u></u></u>
Date:	By: (Signature of: Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)
By: <u><u><u></u><u></u><u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u><u></u></u></u></u>	Grag S. Mark C.O.O. Name and Title
Date: 3/24/2020	Date: 3-10-20

#### \*\*\*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 (two signatures required).

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 (two signatures required).

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 (one signature required).

Legistar File ID No. A 18-343 Agenda Item No. 29



# Monterey County Board of Supervisors

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066

# Board Order

# Agreement No.: A-14062

Upon motion of Supervisor Phillips, seconded by Supervisor Parker and carried by those members present, the Board of Supervisors hereby:

a. Authorized the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute a lease agreement with Modular Devices Inc. for the lease of a mobile computerized tomography (CT) unit, a mobile angiography/interventional radiology lab (IR) unit, and a mobile magnetic resonance imaging (MRI) unit at NMC, with a term of August 1, 2018 through July 31, 2020 and a total agreement amount not to exceed \$2,868,000.

b. Authorized the Deputy Purchasing Agent for NMC or his designee to execute up to three (3) future amendments to the agreement which do not significantly alter the scope of work and do not cause an increase of more than \$100,000.

PASSED AND ADOPTED on this 24th day of July 2018, by the following vote, to wit:

AYES:Supervisors Alejo, Salinas, Phillips, Parker and AdamsNOES:NoneABSENT:None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 81 for the meeting July 24, 2018.

Dated: July 24, 2018 File ID: A 18-343 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Joel G. Pablo, Deputy



# EQUIPMENT LEASE AGREEMENT

This EQUIPMENT LEASE AGREEMENT ("Agreement") is between MODULAR DEVICES, INC., an Indiana corporation, or its affiliated nominee ("Lessor"), and the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center ("Lessee"), with an effective date of August 1, 2018.

- 1. LEASE Lessor agrees to lease to Lessee, and Lessee agrees to hire from Lessor, all of the following leased Equipment;
  - one (1) Mobile IR Laboratory (ie; Angiograpghy Lab),
  - one (1) Mobile CT Laboratory,
  - one (1) Mobile MRI Laboratory,

each in an 8-foot by 48-foot shell, hereinafter called "Equipment" which is also more particularly described in EXHIBIT A, EXHIBIT B and EXHIBIT C attached hereto and by reference made a part hereof. Site preparation and installation requirements are the responsibility of Lessee, and shall include but not be limited to those items listed in a SITE REQUIREMENTS, which is more particularly described in EXHIBITS A, B and C attached hereto and made a part of this Agreement.

This Agreement shall constitute a binding commitment of the parties to lease the Equipment on the terms of this Agreement and any schedules attached hereto and made a part hereof.

- 2. TERM The term of this Lease is August 1, 2018 ("effective Date") through July 31, 2020.
- 3. RENT AND PAYMENT PROVISIONS- Rental for the Equipment will be paid in monthly rental payments of:

٠	Mobile GE Innova 4100 IR Lab:	\$31,500
•	Mobile GE VCT 64 CT Lab:	\$40,000

Mobile Siemens MRI Lab: \$48,000

Lessor 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 Lessor for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. Lessee shall certify the invoice, either in the requested amount or in such other amount as Lessee 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.



Lessee's payments to Lessor 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 Lessee's purchase of the indicated quantity of services, then Lessee may give written notice of this fact to Lessor, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as Lessee may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

- 4. TRANSPORT EXPENSE DELIVERY OF EQUIPMENT TO LESSEE Lessee shall be responsible for prepaying transportation charges in the amount of \$7,500.00 to transport the Equipment to the location defined in Section 7.02 below.
- 5. TITLE OF EQUIPMENT The Equipment is and shall at all times remain the sole and exclusive property of Lessor. The only interest Lessee shall have in the Equipment is that of a Lessee under this Agreement. Lessor and Lessee agree that regardless of the manner of affixation to real estate, the Equipment shall remain personal property and not become part of any such real estate. Lessee shall at all times keep Equipment and this Agreement free from all levies, attachments, liens, encumbrances, claims, charges or other judicial process of every kind, shall give Lessor immediate written notice thereof and shall indemnify and save Lessor harmless from any loss or damages caused thereby.

The parties do not intend this Agreement to be a conditional sales agreement, chattel mortgage, or security agreement within the meaning of any statute requiring filing or recordation.

Lessor makes no representation, express or implied, concerning the tax or accounting treatment of this Agreement.

# 6. INSPECTIONS

6.01. Lessee's Inspection. Lessee shall make necessary inspections and tests of the Equipment at Lessee's sole expense, to determine whether the equipment conforms to Lessee's specifications as pertaining to EXHIBIT "A". Lessee shall promptly notify Lessor, at the time the Equipment is inspected of any defects in or objection to the type or condition of the Equipment. Lessor may at its option remedy such defects or cancel the lease. This Equipment shall be presumed to conform to Lessee's specifications, and to be acceptable for all purposes of this Agreement, and shall be deemed to be in good condition without patent defects.

Lessee shall notify Lessor of any defects which are not apparent upon inspection of Equipment, as soon as such defects are noticed. Lessee's failure to notify Lessor of any defect in, or objection with respect to any item of



the Equipment, shall not establish the absence of any such defect in the Equipment insofar as Lessor is concerned.

- 6.02. Lessor's Initial Inspection and Service. Upon installation and completion of SITE REQUIREMENTS (such as, electricity, water supply, drain, etc.), Lessor will inspect, test, adjust, calibrate, and make Equipment ready for clinical use in the manner for which it is intended. Lessor agrees to provide seven (7) consecutive days of applications training. Additional training may be requested from Lessor and all Travel and Expense Charges will be paid per the Monterey County Travel Policy".
- 6.03. Lessor's Right to Inspection. Lessor shall have the right to enter the premises wherever the Equipment may be located at any time during normal business hours to inspect and examine the Equipment to ensure Lessee's compliance with its obligations under this Agreement, providing such inspection does not interfere with patient treatment.

#### 7. OPERATING MATTERS

- 7.01. Licensing, Registration, and Taxes. Lessee shall obtain all licensing and registration of the Equipment that is required by law. Lessee, on behalf of Lessor, shall bear, and pay and discharge when due all license and registration fees, assessments, sales, use, property, and other taxes (excluding any tax measured by Lessor's income or gross receipts), together with any penalties or interest applicable to them, now or later imposed by any state, federal, or local government on any item of the Equipment, whether they be payable by or assessed to Lessor or Lessee; provided, however, that if under local law or custom such payments may be made only by Lessor. Lessee shall promptly notify Lessor and shall reimburse Lessor, on demand. for all such payments made by Lessor. If by law any such registration or license fee or tax is billed to Lessor, Lessee at its expense will do all things required to be done by Lessor in connection with the licensing or registration procedure and the levy or assessment of any such tax, including payment. Hallway connections, utilities or any part of the Lessor and Lessee SITE **REQUIREMENTS** are exempted.
- 7.02. Location. The Equipment shall be located at the Lessee's place of business at Natividad Medical Center, 1441 Constitution Blvd., Salinas, CA 93906, however, it may be moved with prior written consent of Lessor.

Without Lessor's prior written consent, Lessee shall not affix or attach all or any part of the Equipment to any real property. The Equipment shall remain personal property whether or not it becomes affixed or attached to real property, or permanently rests on any real property or any improvement on real property, and Lessee agrees to obtain any waiver of landlord or mortgagee necessary to protect Lessor's interest in the Equipment.



7.03. Use, Maintenance, and Reports. Lessee shall use the Equipment carefully, shall comply with all laws, ordinances, and regulations relating to its use, operation, or maintenance, and shall not use the Equipment for any illegal purpose. Lessee shall put the Equipment only to the use contemplated by this Agreement and Lessee hereby confirms that the Equipment will be used only for conducting routine CT, IR and MRI related functions.

Lessor shall effect and bear the expense of all repairs, reasonable wear and tear excepted, including maintenance, operation and replacement parts required to maintain the Equipment in good condition, except as may be excluded under Limitations of Equipment Maintenance, (7.04) below or by governmental edict or insurance requirements as discussed below. Such service must be capable of responding twenty-four (24) hours a day, seven (7) days a week, except as may be excluded under Limitations of Equipment Maintenance, (7.04) below. Lessee agrees to maintain accurate and complete records of all said repairs and maintenance to the Equipment and to allow Lessor to inspect said records at any time during business hours of Lessee. Lessee warrants that the Equipment will be used solely for the purpose for which it was designed and manufactured, i.e., as a CT lab, MRI lab or IR lab respectively.

Lessee shall not: assign, transfer or part with possession or control of the Equipment; allow any person or party other than Lessee or Lessor's designated and approved agents to operate the Equipment; allow the Equipment to be used for any nonbusiness related activities; or, make any additions, alterations, or improvements to the Equipment without Lessor's prior written consent. Hallway connections, utilities or any part of the Lessor and Lessee SITE REQUIREMENTS are exempted. Any modifications or additions to the Equipment required by any governmental edict or insurance policy shall be promptly made by Lessee at its own expense. However, Lessee shall first notify Lessor promptly of any such required modifications or additions. Lessee shall have no authority to charge Lessor for any expenses incurred as a result of alterations, additions or improvements to the Equipment. All alterations or improvements so approved shall become the property of Lessor on expiration or earlier termination of this Agreement.

7.04. Limitations of Equipment Maintenance. Service, maintenance, and repairs not provided or covered by this Agreement include, but are not limited to

installation, maintenance, repair or replacement of any item not a part of the Equipment as initially delivered to Lessee by Lessor; and, damage or maintenance made necessary due to misuse, abuse, negligence, acts of God or war, fire, flood, accident, vandalism, failure of electrical power, power surges, lightning strikes, operation of the Equipment in violation of established operational guidelines, unauthorized Equipment modification,



tampering, service by anyone not authorized by Lessor, interconnection of Equipment by electrical, electronic, or mechanical means with noncompatible equipment, or by use of unauthorized, modified, or altered supply items or accessories.

If, upon Lessee's foreknowledge, Lessor chooses to provide any maintenance or repair not covered by this Agreement, Lessee shall pay for such maintenance or repair at Lessors then current service rates.

7.05. Lessee's Insurance Requirements (Loss and Damage). (a) Lessee shall maintain fire, theft, extended and comprehensive coverage equal to the full replacement value of the equipment, but not to exceed \$1,000,000. In addition, Lessee shall maintain insurance for property damage, public liability and bodily injury, as well as insurance for medical malpractice claims and worker's compensation for Lessee's and Lessor's respective employees. Lessee's insurer shall certify coverage as specified in this Agreement and provide certificates thereof and further shall acknowledge that such insurance may not be canceled or altered without thirty (30) days written notice. In the event of loss or damage, including fire, theft, destruction, misuse, abuse, damage due to lightning, power spikes, and other matters found in Section 7.04 of this Agreement, the proceeds of any insurance payable shall be applied, first to Lessee's obligation under this Agreement and then to replacement costs, restoration costs, or repair of the equipment. All such insurance shall name Lessor, and its successors and assigns, as additional insureds, as their interests may appear. Lessee assumes the risk of loss, damage, theft, destruction, or other matters enumerated in Section 7.04 of this Agreement while such equipment is in Lessee's possession, but only if such loss as stated is not caused or contributed to by defects or deficiencies in the design, construction, or maintenance of the equipment or the negligence or misconduct of Lessor and its employees, agents or contractors.

Lessee represents and warrants (i) that it has the full power, authority, and legal right to enter into and perform under this Agreement and any attachments or exhibits hereto, and, if a corporation, that Lessee will supply Lessor with proof that all requisite corporate action has been taken; (ii) that the execution of this Agreement, any attachments or any exhibits hereto, does not and will not contravene any agreement to which Lessee is a party, including its Articles of Incorporation or By-laws, if Lessee is a corporation; (iii) that during the term of this Agreement Lessee will promptly notify Lessor of any such contravention; and, (iv) that no mortgage, deed of trust, charter, lease of other lien or security interest of any type which now covers or affects any property or interest of Lessee will attach to the Equipment.

See Section 14 herein for Lessor's Insurance Requirements.



7.06. Identification. Lessee shall affix to and maintain on the Equipment all labels and plates provided by Lessor, or conspicuously mark the Equipment with such language as Lessor may reasonably request, to the effect that the equipment is owned by Lessor and is subject to this Agreement. However, in the event local or state authority require external markings or labels or no labels such shall be the responsibility of the Lessee under the SITE REQUIREMENTS.

#### 8. TERMINATION

- 8.01. Surrender on Termination of Lease. Lessee may terminate this Agreement for any reason at any time with at least sixty (60) days advance written notice. If the sixty (60) day's falls anywhere within a monthly billing cycle Lessee is responsible for remaining portion of that month, and Lessee has, as it's option, the ability to continue to Use the Equipment past the sixty (60) day's notice period through the end of the billing cycle. Lessor does not offer daily or weekly proration. At the expiration or earlier termination of this Agreement, unless Lessee extends this Agreement, Lessee shall return each item of Equipment to Lessor, free of all advertising or insignia placed on it by Lessee, and in good condition, repair, and working order, ordinary wear and tear excepted. The Equipment shall be surrendered by Lessee, by notifying Lessor that the Equipment is ready to be picked up by Lessor. Lessee is liable for the restoration of the Equipment to good working condition ("Good working condition" is defined as: fully functional as it was when originally delivered"). or repair to working order. In addition, Lessee shall remain liable for any damage to Equipment to restore the Equipment to good repair and working order.
- 8.02. Holding Over. DELETED
- 8.03. Equipment Removal and Removal Fees. Lessee shall be responsible for paying the return transportation charges of \$7,500 for each unit (\$22,500 total), with the return transportation charges of \$7,500 to be billed on the last monthly invoice for each unit. Lessor will remove the equipment within thirty (30) calendar days after the date of last use of equipment. Lessee will be responsible for removing hallway connections, ramps, and all related items prior to removal. 480 Volt, 3 Phase electrical service must remain on until the lab is removed. If craning is necessary, Lessee shall coordinate, control and contract for this service at Lessee's expense.

### 9. DEFAULT AND REMEDIES

9.01. Events of Default. Time is of-the-essence with this Agreement. Any of the following occurrences shall be an event of default under this Agreement: (i) if Lessee defaults in the payment of any sum of money to be paid under this Agreement and default continues for ten (10) days; (ii) if Lessee commits any



act of bankruptcy, or any proceeding under the Bankruptcy Act is commenced by or against Lessee; (iii) if a writ of attachment or execution is levied on any item of Equipment and is not discharged within ten (10) days after that levy; (iv) if a receiver is appointed to take possession of any item of Equipment leased under this Agreement; (v) if Lessee dissolves or ceases actively to carry on business; (vi) if Lessee transfers substantially all of its assets or merges or consolidates with or is acquired by any other person or entity, without Lessor's prior written consent; (vii) if any of the representations and warranties made by Lessee in this Agreement are not true and correct in any material respect by either party; (viii) if Lessee attempts to assign, pledge, or hypothecate any interest in this Agreement or to sublet, assign, pledge, hypothecate or lend all or part of the Equipment without Lessor's prior written consent; (ix) if any financial statement delivered to Lessor is not true and correct in any material respect; (x) if Lessor fails to deliver the Equipment free of defects and in good working order within a reasonable time; (xi) if Lessor fails to adequately maintain and keep such Equipment in good repair so long as Equipment is used in accordance with manufacturer's standards, or (xii) if either party fails to fulfill any of its obligations pursuant to this Agreement.

9.02. Remedies of Lessor. On the occurrence of any event of default by Lessee, Lessor may exercise any one or more of the following remedies with respect to the Equipment under this Agreement, without further notice to or demand on Lessee:

(1) Take possession of the Equipment upon thirty (30) day's written notice.

(2) Lease the Equipment to such persons, at reasonable rental and for such period of time (which may extend beyond the Term of the lease under this Agreement) as Lessor shall elect. Lessor shall apply the net proceeds of any such rental to payment of Lessee's obligations under this Agreement. For this purpose, "net proceeds" means the proceeds of any rental under this section minus all costs and expenses incurred in connection with the recovery, repair, storage, testing, or sale of the Equipment. Lessee shall remain liable for any deficiency, which at Lessor's option shall be paid monthly, as suffered, immediately, or at the end of the Term as damages for Lessee's default.

(3) Sell the Equipment at a public or private sale for cash or on credit at fair market value. Lessor shall apply the net proceeds of that sale to the payment of Lessee's obligations under this Agreement. For this purpose, "net proceeds" means the proceeds of any sale under this section minus all costs and expenses incurred in connection with the recovery, repair, storage, testing, or sale of the Equipment. Lessee shall remain liable for any deficiency, which Lessee shall pay within ten (10) days after the sale.

(4) Bring legal action to recover all rents or other amounts accrued then or accruing later from Lessee to Lessor under this Agreement.



- (5) Pursue any other remedy Lessor may have.
- 9.03. Remedies of Lessee. On the occurrence of any event of default by Lessor, Lessee may exercise any one or more of the following remedies under this Agreement, without further notice to or demand on Lessor:

(1) Terminate this Lease upon thirty (30) days written notice and notify Lessor that the Equipment is surrendered to Lessor's possession.

(2) Pursue any other remedy Lessee may have.

#### 10. ASSIGNMENT

10.01. Without prior written consent, Lessor and Lessee shall not assign, transfer, sublet, pledge, hypothecate or otherwise dispose of this Lease or any interest herein. Lessee shall recognize each such assignment and covenants not to assert against the assignee any defense, counterclaim or set-off that Lessee has or may have against Lessor, and agrees to pay such rent and other payments due to become due hereunder to assignee.

#### **11.INDEMNIFICATION**

Lessor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any and all claims, liability 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 Lessor's performance of this Agreement, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "Lessor's performance" includes Lessor's action or inaction and the action or inaction of Lessor's officers, employees, agents and subcontractors.

#### 12. DISCLAIMER OF WARRANTY NOTICE - DELETED

#### 13. MISCELLANEOUS PROVISIONS

13.01. Accident Reports Concerning Equipment. Lessee shall immediately notify Lessor of any accident connected with the operation or malfunctioning of any unit of the Equipment, and include in the notice the time, place, and nature of the accident, the damage caused to property, the names and addresses of



persons injured and of witnesses, and such other information as may be pertinent to Lessor's investigation of the accident.

- 13.02. Nonwaiver. No waiver of obligations, conditions, or covenants shall be considered to take place unless the waiver is in writing and signed.
- 13.03. Survival of Covenants. Wherever the context permits, Lessee's covenants under this Agreement shall survive the delivery and return of the Equipment.
- 13.04. Amendments. No term or provision of this Agreement may be changed, waived, discharged, or terminated orally, but only a written instrument signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.
- 13.05. Captions. Captions in this Agreement are for convenience of reference only and shall not define or limit the terms or provisions of this Agreement.
- 13.06. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the state of California, County of Monterey, including all matters of construction, validity, and performance.
- 13.07. Access. If required by Section 1395x (v) (1) of Title 42 of the United States Code, until the expiration of four (4) years after the termination of the contract, Lessor will make available the books, records, and documents as required by such Section, and will insert the clause required by such Section in any subcontract with a related organization.
- 13.08. <u>Assignment and Subcontracting</u>: Lessor shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of Lessee. None of the services covered by this Agreement shall be subcontracted without the prior written approval of Lessee. Notwithstanding any such subcontract, Lessor shall continue to be liable for the performance of all requirements of this Agreement.
- **13.09.** Lessor warrants that Lessor and Lessor'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 Lessee, or immediate family of an employee of Lessee.
- 13.010. <u>Maintenance of Records</u>. Lessor shall prepare, maintain, and preserve all reports and records that may be required by federal state, and County of Monterey rules and regulations related to services performed under this Agreement. Lessor 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 Lessor shall retain said records until such action is resolved.

- 13.011. Access to and Audit of Records. Lessee shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the Lessor 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 or \$10,000, the parties to this Agreement may be subject, at the request of Lessee or as part of any audit of Lessee, 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.
- 13.012. NON-DISCRIMINATION. During the performance of this Agreement, Lessor, 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 Lessor's employment practices or in the furnishing of services to recipients. Lessor 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. Lessor and any subcontractor shall, in the performance of this Agreement, full 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 deerned to be prohibited discrimination.

#### 14. INSURANCE REQUIREMENTS

#### 14.1 Evidence of Coverage:

Prior to commencement of this Agreement, Lessor 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, Lessor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to Lessee's Contracts/Purchasing Department, unless otherwise directed. Lessor shall <u>not</u> receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and Lessee has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of Lessor.

14.2 <u>Qualifying Insurers</u>: 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 Lessee's Contracts/Purchasing Director.

14.3 <u>Insurance Coverage Requirements:</u> Without limiting Lessor's duty to indemnify, Lessor shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

<u>Commercial general liability insurance</u>, 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.

<u>Business automobile liability insurance</u>, 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.

<u>Workers' Compensation Insurance</u>, If Lessor 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.

<u>Professional liability insurance</u>, 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 Lessor 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.

#### 14.4 Other Lessor Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to Lessee 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 Lessor completes its performance of services under this Agreement.



Each liability policy shall provide that Lessee 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 Lessor and additional insured 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 anising out of the Lessor's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or selfinsurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by Lessor's insurance. The required endorsement from 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 from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by Lessee, Lessor shall file certificates of insurance with Lessee's Contracts/Purchasing Department, showing that Lessor has in effect the insurance required by this Agreement. Lessor shall file a new or amended certificate of insurance within five (5) 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.

Lessor 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 Lessee, annual certificates to Lessee's Contracts/Purchasing Department. If the certificate is not received by the expiration date, Lessee shall notify Lessor and Lessor shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Lessor to maintain such insurance is a default of this Agreement, which entitles Lessee, at its sole discretion, to terminate the Agreement immediately.

Lessee's Insurance Requirements are stated herein in Section 7.05.



IDI :: MOBILE VASCULAR LAB SOLUTIONS

Exhibit A (Mobile CT specs) Exhibit B (Mobile IR Specs) Exhibit C (Mobile MRI Specs) **Business Associate Agreement** 

IN WITNESS WHEREOF, the parties hereto have duly executed the Agreement as of the dates set forth below. For all purposes hereof, the date of the Agreement shall be the date of the Lessor's acceptance as set forth below.

By execution hereof, the signer certifies that (s)he has read the entire Agreement that Lessor or its representatives have made no agreements or representations except as set forth herein and that (s)he is duly authorized to execute the Agreement on behalf of the Lessee.

ACCEPTED BY:

BY:

Printed

NAME:

TITLE:

LESSOR: MODULAR DEVICES, INC.

DATE: 7/12/2018

6678 Guion Road Indianapolis, Indiana 46268

LESSEE:

The County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center 1441 Constitution Blvd.

mqiana 40200	Saunas,	CA, 93900
Silliam K Mink	BY:	A
BERTHINK BOB MINK.	Printed NAME:	GoyGen
- PLESIDENT	TITLE:	CEO
112/2018	DATE:	265/17

Approved as to Legal	Jell
Monterey County Deputy 6	ounty/Counsel
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Chief-Deputy Auditor-Cont	roller
Date: 720	1-10

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LESSEE:

ACCEPTED BY:

LESSOR: MODULAR DEVICES, INC.

6678 Guion Road Indianapolis, Indiana 46268

BY:		
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Printed	
NAME:	Greg Mink

TITLE: COO

DATE: \_\_\_\_\_

The	County	of Moi	nterey, a	political	
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behalf of Natividad Medical Center 1441 Constitution Blvd. Salinas, CA, 93906 BY: \_\_\_\_\_\_\_ Printed NAME: G\_\_\_\_\_\_ TITLE: \_\_\_\_\_\_ DATE: \_\_\_\_\_\_

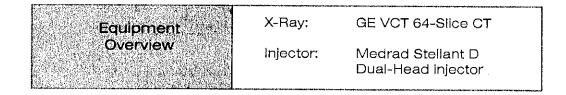
Approved as to Legal Form BY: Monterey County Deputy County Counsel Date: Approved as to Payment Provisions: BY: Chief-Deputy Auditor-Controller Date:

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### EXHIBIT A - MOBILE CT LAB

## Equipment List - Lab 205

Exhibit "A"



### CT System

#### **GE VCT 64-Slice CT Scanner**

The world's first Volume CT system, is the latest innovation in computed- tomography (CT) technology that ushers in game-changing clinical imagery and applications in neurology, cardiology, and general radiology. Captures images of a beating heart in five heartbeats, an organ in a second, and if necessary, whole body trauma in 10 seconds. Volume coverage is diagnostic power -- including the ability to routinely perform CT-angiography, in addition to rapid test for stroke and chest pain. Scans as fast as 0.35 seconds per rotation. Higher speed scanning translates to clearer, sharper images with fewer problems caused by patient movement or motion of a beating heart. Automated dose-reduction features means less exposure to radiation. Patients benefit from faster exams and less time needed for breath-holds, which can mean less stress for the patient.

#### System Components May Include:

- 64 × 912 Ceramic Detectors
- 0.63, 1.25, 2.5, 3.75, 5, 7.5, 10mm Slice Thickness
- Oil/Air Tube Cooling
- 60 sec. Max Scan Time
- 960 Scans/min Dynamic Scan Rate
- Two 19 Inch LCD Monitors
- 803 GB Hard Drive
- MX 240 8.0 MHU Tube
- Smart Prep
- Smart Tools
- Smart Helical
- Connect Pro
- AutoMA
- Direct MPR
- 3000 Image Series
- Direct 3D
- Data Export
- Copy Compose
- Exam Split
- VolumeViewer
- Noise Resduction Filter
- Neuro Filter





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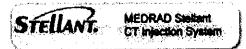


## Equipment List - Lab 205

Exhibit "A"

### Contrast Injection System

#### Medrad Stellant D Dual-Head CT Contrast Injector - Roll Around





## The Medrad Stellant D Dual Syringe CT Injection System is reliable and easy to use.

Protocol Options for the most advanced clinical applications:

- Designed for complex CTA and Cardiac CT protocols
- Creates tight contrast bolus
- · Enables precisely timed contrast delivery

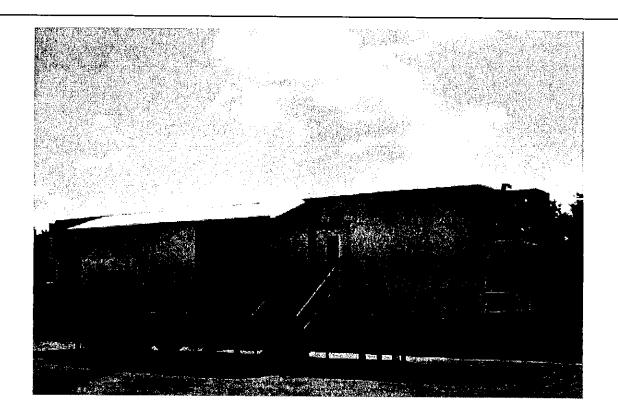
#### The Medrad Stellant D efficiently increases throughput with:

- Snapon/twist off syringe design
- · Automatic plunger advance and retract when attaching and detatching syringes
- · Automatic filling and priming
- · Storage and recall of up to 32 protocols
- Multi-phase programming
- · Integrated saline test inject
- Programmable pressure limit



### EXHIBIT A - MOBILE CT LAB

## Site Planning Guide - Mobile Lab 205



# Mobile Lab #205 Site Requirements Planning Guide

# Mobile Lab 205 Site Requirements Planning Guide

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## Summary Page

Modular Devices Inc. has more than 24 years experience assisting customers with preparing and planning for the delivery and installation of our interim Mobile Labs. In our experience it is best to start planning early and we welcome the opportunity to visit customer sites in advance to assist in site selection and planning for the arrival of a mobile lab. We have a large team of Operations, Logistics, Applications and Service personnel who work with each and every customer to carefully plan and execute a successful interim lab project.

Installation of a Mobile Interim Lab requires that your site is prepared to satisfy the lab's general specifications. This guide is intended to provide an overview of the Site Requirements needed for preparing your site for delivery and installation of a Mobile Lab.

## Site Requirements Summary

- · Pad Site
- 480V, 3 Phase, 150A power
- Russellstoll female receptacle for power connection
- Telephone connections (all CAT 5 wiring in home run configuration at access point).
- Data/LAN connection if required by customer
- Connection to facility at customer's discretion
- Power Quality Monitoring Test

The purpose of this document is to provide the basic information needed for site planning. For specific information not contained in this document please contact Modular Devices Inc.



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### Mobile Pad Requirements

#### Pad Size and Type

The mobile lab will need a level concrete or asphalt base to accommodate an  $8' \times 48'$  mobile lab. A minimum pad size of 10'  $\times$  41' is recommended to provide an area for all support legs and wheels to sit on a solid surface.

#### Pad Depth

The depth of the pad is to be determined by a local contractor based on climate, soil and other conditions.

#### **Required Support**

The pad must be capable of supporting a total weight of 55,000 pounds. The front legs support approximately 20,000 pounds, and the rear legs support 35,000 pounds.

#### **Pad Levelness**

The pad must be as level as possible. If you have questions about the feasibility of your site, MDI's on-staff professionals will be happy to assist you.

#### **Air Flow Requirements**

To maintain maximum capacity, lowest operating cost, satisfactory operation of ventilation packages and longest service life the following clearances for acceptable air conditioning condenser air flow should be maintained:

• HVAC unit discharging against wall or solid barrier: 15 feet

#### Attachment to Facility

Various connection system options are available. The physical connection between the land based facility and the mobile lab can be as simple or complex as desired. In appropriate climates, awning type enclosures seem to work the best. More permanent structures can also be built. Please contact us for examples of what prior customers have done to physically connect a mobile lab to a hospital. MDI requests that customers not permanently attach any adjoining structures to the mobile lab.



## Radiation Shielding

Care should be taken when determining a site location for a mobile lab. Factors such as shielding, proximity to buildings, and occupancy of surrounding buildings must be considered. MDI will provide a current physicist report with each lab. Some states/localities may require physicist reports be done locally, in which case it is the responsibility of the customer to perform a proper radiation survey/physicist report if required.

### Power Requirements

#### **Electrical Service**

The mobile lab requires a 480 Volt, 150 Amp, three phase, wye connection with neutral and ground. The lab is equipped with an on-board back-up generator with an automatic transfer switch capable of meeting mobile lab power requirements in the event of shore power failure.

#### **Power Cord**

MDI will provide a properly sized power cord. Our personnel will connect the mobile lab to the facility's permanent power and will check to assure proper phasing.

#### Land-Side Power Connection

The standard land-side connection is a Russellstoll female receptacle and box **#DF 2504 FRABO** mounted as close as possible to the rear of the mobile lab. The distance from the bottom of the receptacle to grade should not be less than 42". A service disconnect should be provided at the receptacle. If the proper female receptacle can not be obtained, MDI personnel can hard-wire the lab into the junction box.

Power Receptacle Angled Box and Receptacle Model #DF 2504 FRAB0 (shown with male plug attached)





### Power Requirements (Continued)

#### Frequency

The frequency must be 60Hz with a maximum variation of  $\pm 0.5$ Hz.

#### Phase Balance

The phase balance is 2% max between phases.

#### Maximum voltage variation

The maximum voltage variation is  $\pm 5\%$  from nominal steady state (under the worst case conditions of line voltage).

#### Power Source Monitoring (Facility Only)

NOTE: Perform a power audit first.

1

A power analyzer should be used to check the proposed Mobile Lab facility site power for average line voltage, surges, sags, reclosures, impulses, frequency and microcuts. A period that includes two weekends should be used to simulate several days of normal use. Analysis of the data and site history of any previous power problems with other X-ray systems or computer installations should be reviewed with your power and ground representative. Verify "brown-out" (low voltage) conditions, which may occur during summer months, will not exceed the allowable range.



Data, Telephone and Network Connections

#### **Telephone and Data Connections**

The mobile lab has a number of configurable data/phone jacks throughout the lab with CAT5 cabling running from a weatherproof junction box in one of the compartments beneath the lab directly to each individual data/phone jack. The data/phone jacks utilize a female RJ-45/RJ-11 universal type connector. MDI recommends a minimum of two (2) phone lines for the lab.

• The customer is required to provide the network wiring from the facility to connect to the junction box in the mobile lab.



#### Fire Alarm

The mobile lab has an on-board fire warning system and is equipped with smoke and heat detectors throughout the entire lab. The alarm system can be wired into the supporting facility's fire alarm system through a contact block in a weatherproof junction box in the rear of the lab (accessible from the exterior). The lab is also equipped with hand-held fire extinguishers.

#### Code Blue

Code Blue can be handled in two different ways: Through 1) the phone system or 2) a blank electrical box mounted on the wall of the procedure room for a push-button notification system. The box contains an appropriate wire that terminates in a weath-erproof junction box in the rear of the lab, where the facility can tie into their own code blue system.

• If using a push-button, the customer is responsible for providing the actual code-blue button.



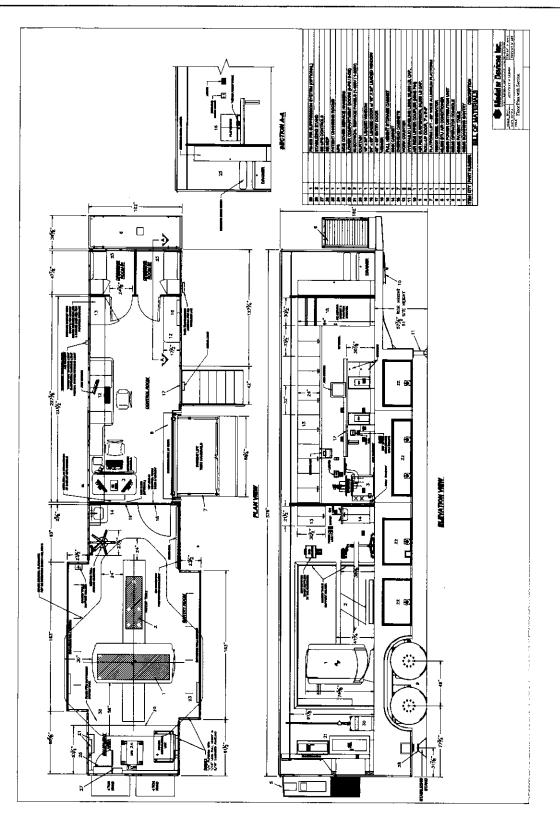
## Regulations and Responsibilities

#### **Regulations/Ordinances/Licenses/Permits**

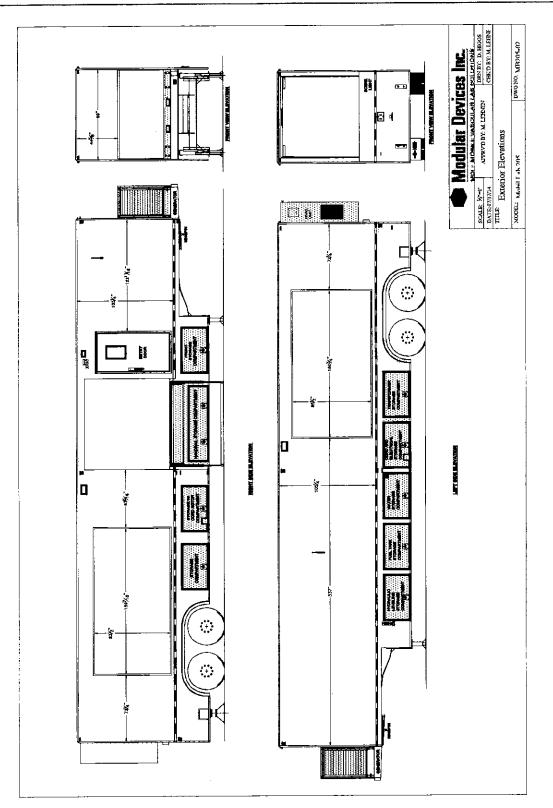
The Hospital is responsible for obtaining all licenses and/or permits and meeting all state and local codes necessary for operation of the mobile lab. The hospital is also responsible for the connection system, pad and any costs associated with craning the mobile lab into place, if required.



## Figure 1: Floor Plan



## Figure 2: Elevations



## **Equipment List**

Exhibit "A"



## X-Ray System

#### GE INNOVA 4100 DIGITAL FLAT DETECTOR IMAGING SYSTEM



GE Healthcare's Innova 4100 is a large-format digital flat-panel X-ray system for angiographic imaging that incorporates GE's exclusive Innova single piece, non-tiled digital detector (41 cmby-41 cm) to provide high-resolution imaging across the full range of vascular and intervenntional applications

The 41-cm-by-41-cm Innova detector is the industry's largest, according to the manufacturer. An ample field of view allows clinicians to see their way through angiography or interventional imaging procedures.

The Innova detector provides a dynamic exposure optimization system, AutoEx, designed to optimize system parameters and image processing to maximize real-time image quality and minimize dose.

The fully integrated imaging system is programmed to meet the clinical needs for interventional and diagnostic angiography with image quality, dose management and positioning,

#### **System Description**

- · GE Innova 4100 single plane Cardiac/Angiographic system
- 100 KW generator with flat screen control console
- Floor mounted model 4100 Positioner
- · Omega patient table
- · 41 cm flat panel digital detector
- · MX 160 x-ray tube
- · 2 Hi-resolution LCD monitors with ceiling suspended mount
- Integrated digital imaging system with hi-speed DICOM output
- Installed Angiographic and Vascular software, books and manuals



## **Equipment List**

## Exhibit "A"

## Hemodynamic Monitoring System

#### GE Mac-Lab IT Hemodynamic Monitoring System

#### Essential functionality... exceptional performance

With a long history as a trusted mainstay of the cath lab, the Mac-Lab IT hemodynamic recording system is the foundation of the Mac-Lab family. Its innovative capabilities and functionality deliver dependability, ease of use and excellent IT data integration to help you optimize your workflow, productivity and throughput. Mac-Lab IT hemodynamic recording systems help to enhance operational efficiency in the cath lab.

#### Comprehensive data collection at the point of care



- Interfaces with X-ray systems to automatically upload demographics to the imaging systems and receive radiological parameters such as angulations and dose area product - helps to reduce data entry errors and save time.
- •Collect registry data at the point of care, helping to minimize postprocedure chart pulls.
- •Custom forms data allows up to 5,000 user-defined fields to be config ured for data entry - collect the data the way you want.
- · Comprehensive data export to GE and third-party registry and data management systems.

#### Contrast Injection System

#### Medrad Mark V Provis Contrast Injector



The Mark V ProVis is designed to be easy to use, from the readability of the display and controls to the ergonomics and functionality of the injector and control panel.

- Large and bright control panel improves readability at a distance.
- Syringe volume is constantly up-dated and is easily read at a glance.
- · Sequenced control panel guides setup.
- Common protocols are stored quickly to save time.
- · Large, secure handle and oversize wheels for easy maneuvering in the tightest situation.



- MEDRAD gives you multiple levels of protection
- Programmed microprocessor helps protect against:
- Over-volume
- Over-flow
- Over-pressure
- Mechanical stop:
- Automatically sets and locks to physically limit injection to the selected volume
- Unaffected by electrical interruption
- Set position is verified by LEDs on the injector head



## Equipment List

## Exhibit "A"

## Image Review Workstation

#### **GE Advantage Workstation**



The GE Advantage workstation is one of the most widely used visualization and analysis solutions in the world. Advantage Workstation delivers fast and clinically effective post-processing solutions to help handle the increasing diagnostic and workflow needs of today's imaging departments.

#### **Powerful Simplicity**

With automated pre and post-processing, one-click access to applications, and one-touch protocols, AW improves consistency and efficiency – so that you can tackle advanced clinical challenges with speed, accuracy and confidence.

#### **Enlightening Integration**

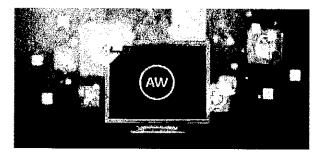
AW supports easy comparison of CT, MR, PET, SPECT and Interventional 3D images. Achieve registration and fusion of volumetric acquisitions using dedicated protocols or by doing a simple "drag-and-drop" within the AW platform.

#### Interventional Visualization

AW's advanced integration capabilities enable the use of multi-modality images for highly informed, real-time planning and navigation during interventional therapies.

#### **Streamlined Workflow**

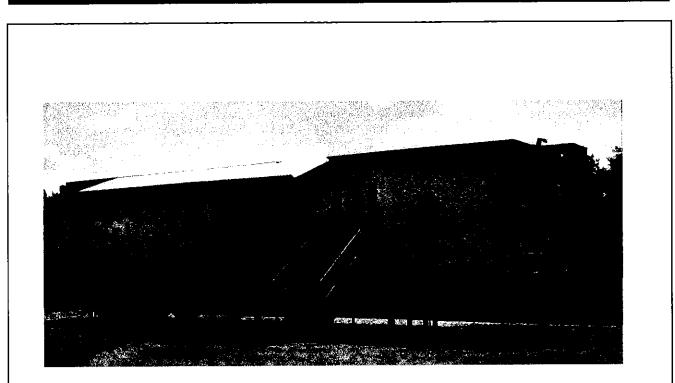
Revolutionary workflow enhancements minimize clicks and maximize efficiency. AW Workstation organizes tasks and tools in a manner that corresponds directly to the ways in which physicians work, making processing virtually second nature.





### EXHIBIT B - MOBILE IR LAB

## Site Planning Guide - Mobile Lab 185 - Exhibit "B"



# Mobile Lab #185 Site Requirements Planning Guide



# Mobile Lab 185 Site Requirements Planning Guide

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### Summary Page

Modular Devices Inc. has more than 24 years experience assisting customers with preparing and planning for the delivery and installation of our interim Mobile Cath/Vascular Labs. In our experience, it is best to start planning early. We welcome the opportunity to visit customer sites in advance to assist in site selection and planning for the arrival of a mobile or modular lab. We have a large team of Operations, Logistics, Applications and Service personnel who work with each and every customer to carefully plan and execute a successful interim lab project.

Installation of a Mobile Cath/Vascular Lab requires that your site is prepared to satisfy the lab's general specifications. This guide is intended to provide an overview of the Site Requirements needed for preparing your site for delivery and installation of a Mobile Lab.

## Site Requirements Summary

- · Pad Site
- 480V, 3 Phase, 200A power
- Russellstoll female receptacle for power connection
- · Cold water hose bib and RV supply hose
- Sanitary sewer drain (or holding tank) as required by local codes
- Telephone connections (all CAT 5 wiring in home run configuration at access point).
- · One dedicated analog or equivalent modem line
- Data/LAN connection and dedicated I.P. Addresses
- Connection to facility at customer's discretion
- Power Quality Monitoring Test

The purpose of this document is to provide the basic information needed for site planning. For specific information not contained in this document please contact Modular Devices Inc.



MDI :: MOBILE INTERIM LAB SOLUTIONS

### Mobile Pad Requirements

#### Pad Size and Type

The mobile lab will need a level concrete or asphalt base to accommodate an 8' x 48' mobile lab. A minimum pad size of 10' x 41' is recommended to provide an area for all support legs and wheels to sit on a solid surface. See Figure 7: Pad Layout

#### Pad Depth

The depth of the pad is to be determined by a local contractor based on climate, soil and other conditions.

#### **Required Support**

The pad must be capable of supporting a total weight of 55,000 pounds. The front legs support approximately 20,000 pounds, and the rear legs support 35,000 pounds.

#### Pad Levelness

The pad must be as level as possible. If you have questions about the feasibility of your site, MDI's on-staff professionals will be happy to assist you.

#### Air Flow Requirements

To maintain maximum capacity, lowest operating cost, satisfactory operation of ventilation packages and longest service life the following clearances for acceptable air conditioning condenser air flow should be maintained: • HVAC unit discharging against wall or solid barrier: 15 feet See Figure 7: Pad Layout

#### Attachment to Facility

Various connection system options are available. The physical connection between the land based facility and the mobile lab can be as simple or complex as desired. In appropriate climates, awning type enclosures seem to work the best. More permanent structures can also be built. Please contact us for examples of what prior customers have done to physically connect a mobile lab to a hospital. MDI requests that customers not permanently attach any adjoining structures to the mobile lab.



MDI :: MOBILE INTERIM LAB SOLUTIONS

## Radiation Shielding

Care should be taken when determining a site location for a mobile lab. Factors such as shielding, proximity to buildings, and occupancy of surrounding buildings must be considered. MDI will provide a current physicist report with each lab. Some states/localities may require physicist reports be done locally, in which case it is the responsibility of the customer to perform a proper radiation survey/physicist report if required.

### Power Requirements

#### **Electrical Service**

The mobile lab requires a 480 Volt, 200 Amp, three phase, wye connection with neutral and ground. The lab comes equipped with an on-board emergency backup generator. This generator does not meet California EPA emissions standards so if used in California backup power will need to be provided by the hospital on a critical branch circuit.

#### Power Cord

MDI will provide a properly sized power cord. Our personnel will connect the mobile lab to the facility's permanent power and will check to assure proper phasing.

#### Land-Side Power Connection

The standard land-side connection is a Russellstoll female receptacle and box **#DF 2504 FRABO** mounted as close as possible to the rear of the mobile lab. The distance from the bottom of the receptacle to grade should not be less than 42". A service disconnect should be provided at the receptacle. If the proper female receptacle can not be obtained, MDI personnel can hard-wire the lab into the junction box.

Power Receptacle Angled Box and Receptacle Model #DF 2504 FRAB0 (shown with male plug attached)





### Power Requirements (Continued)

#### Frequency

The frequency must be 60Hz with a maximum variation of  $\pm 0.5$ Hz.

#### Phase Balance

The phase balance is 2% max between phases.

#### Maximum voltage variation

The maximum voltage variation is  $\pm 5\%$  from nominal steady state (under the worst case conditions of line voltage).

#### Power Source Monitoring (Facility Only)

NOTE: Perform a power audit first.

A power analyzer should be used to check the proposed Mobile Lab facility site power for average line voltage, surges, sags, reclosures, impulses, frequency and microcuts. A period that includes two weekends should be used to simulate several days of normal use. Analysis of the data and site history of any previous power problems with other X-ray systems or computer installations should be reviewed with your power and ground representative. Verify "brown-out" (low voltage) conditions, which may occur during summer months, will not exceed the allowable range.

#### NOTE:

The electrical power source must meet the requirements of the national electric code and National Fire Protection Association for Emergency Backup Power as applied to cardiac catheterization labs. Please consult the applicable codes and the local authorities in your area for guidance. The following codes define the requirements of "Emergency Systems" for cardiac catheterization laboratories: NFPA 70 Article 517-33 (a) (8) c & NFPA99 Paragraph 3-4.2.2.2 (c)



## Data, Telephone and Network Connections

#### **Telephone and Data Connections**

The mobile lab has a number of configurable data/phone jacks throughout the lab with CAT5 cabling running from a weatherproof junction box in one of the compartments beneath the lab directly to each individual data/phone jack. The data/phone jacks utilize a female RJ-45/RJ-11 universal type connector. MDI recommends a minimum of two (2) phone lines for the lab.

• The customer is required to provide the network wiring from the facility to connect to the junction box in the mobile lab.



(Typical Mobile Lab Network Block)

#### **Dedicated I.P. Addresses**

The mobile lab requires dedicated IP address for the following systems:

- PACS. If sending images to PACS the x-ray system and image review workstations will require a dedicated I.P. Address.
- The lab comes installed with a power quality monitor which requires a dedicated I.P. Address. This device monitors the incoming power and provides real-time alerts of adverse power conditions which could potentially damage the installed equipment in the lab.

#### Fire Alarm

The mobile lab has an on-board fire warning system and is equipped with smoke and heat detectors throughout the entire lab. The alarm system can be wired into the supporting facility's fire alarm system through a contact block in a weatherproof junction box in the rear of the lab (accessible from the exterior). The lab is also equipped with hand-held fire extinguishers.

#### Code Blue

Code Blue can be handled in two different ways: Through 1) the phone system or 2) a blank electrical box mounted on the wall of the procedure room for a push-button notification system. The box contains an appropriate wire that terminates in a weatherproof junction box in the rear of the lab, where the facility can tie into their own code blue system.

• If using a push-button, the customer is responsible for providing the actual code-blue button.



### Water/Drain

#### Water Supply Connection

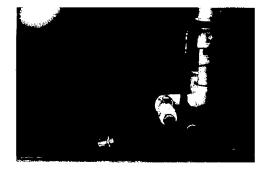
Water can be supplied to the lab via a cold water spigot with an RV grade water supply hose. The lab has an on-board hot water heater. The water is for scrubbing-in before cases and other general uses. An exterior 110V outlet is readily accessible for heat tape to wrap the supply hose.

• Customer is required to provide the water supply hose to the facility to connect to the water supply connection in the mobile lab.

#### Waste Water

The drain for the mobile lab is a 1" pvc tube that has an attachment for a standard male garden hose connection. Attachments should be made with a garden or RV grade hose. An additional option is a threaded male adapter in place of the garden hose adapter. Drainage from the lab will be run-off from hand washing and general cleanup within the lab. Depending upon local requirements, waste water can be drained to a sanitary sewer or holding tank. An exterior 110V outlet is readily accessible for heat tape to wrap the drain line.

• The customer is required to provide the waste water connection and also to ensure the proper disposal of waste water - ie. holding tank, sanitary sewer, etc.



(Typical Mobile Lab Water/Drain Connection)

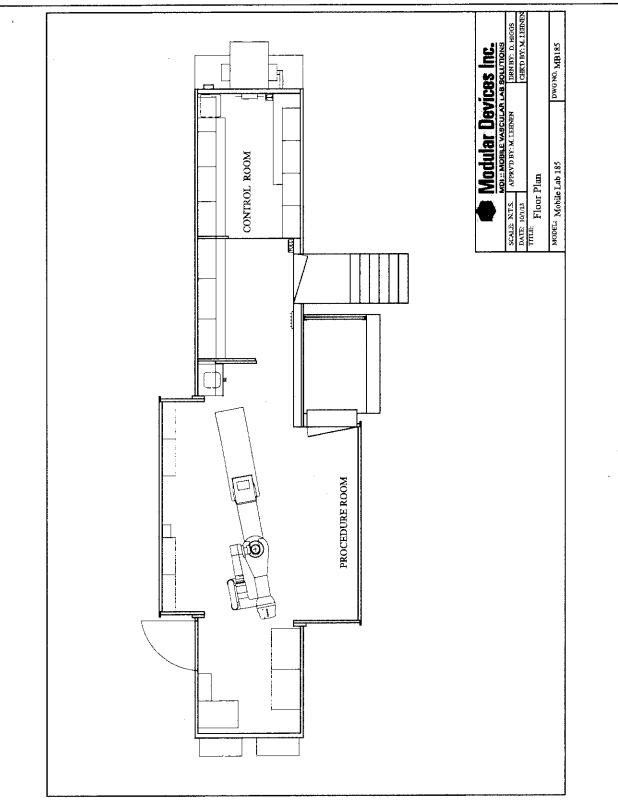
### Regulations and Responsibilities

#### **Regulations/Ordinances/Licenses/Permits**

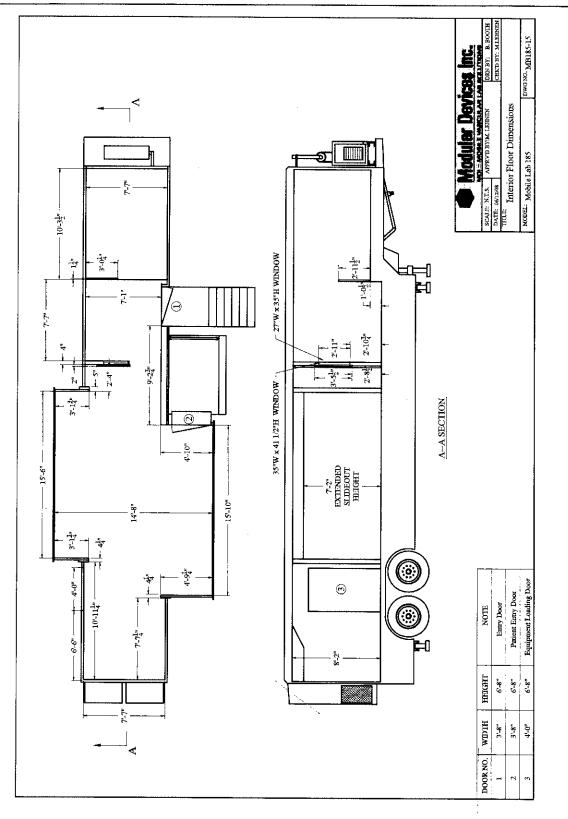
The Hospital is responsible for obtaining all licenses and/or permits and meeting all state and local codes necessary for operation of the mobile lab. The hospital is also responsible for the connection system, pad and any costs associated with craning the mobile lab into place, if required.



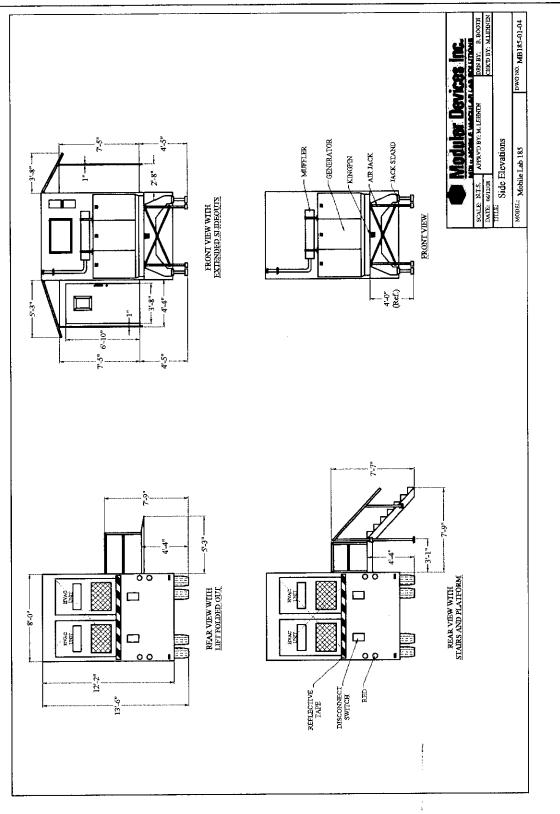
## Figure 1: Floor Plan



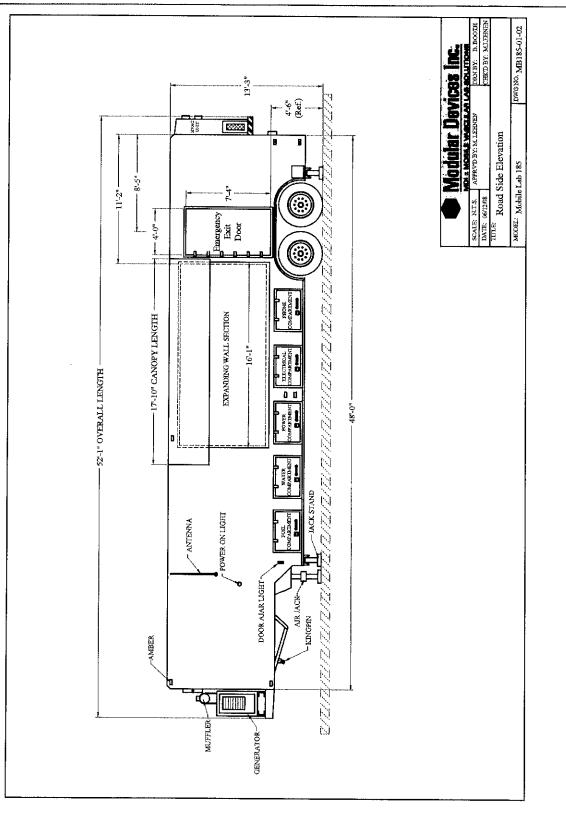
## • Figure 2: Interior Floor Dimensions



## Figure 3: Side Elevations



## Figure 4: Road Side Elevation



## Figure 5: Curb Side Elevation

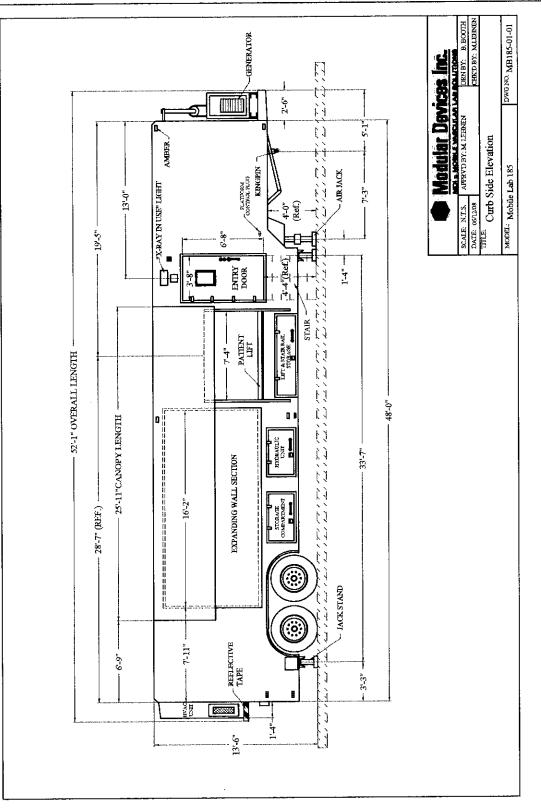
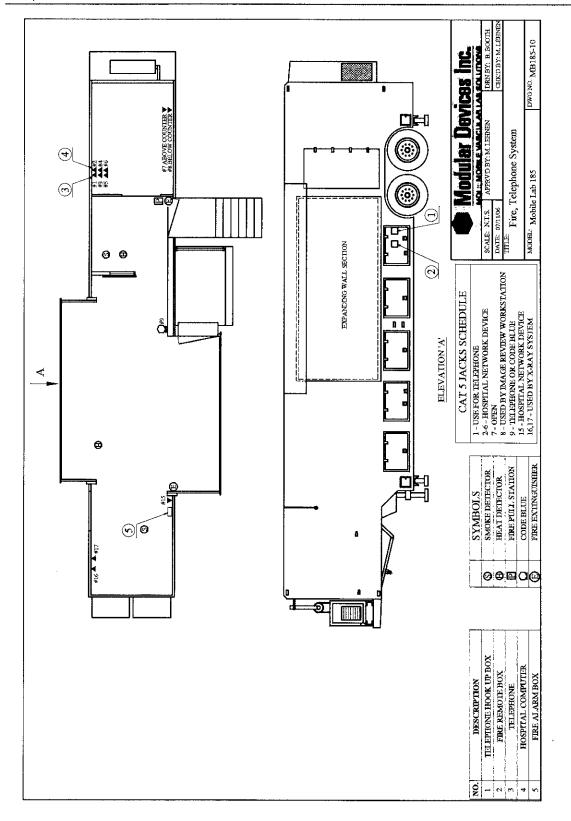
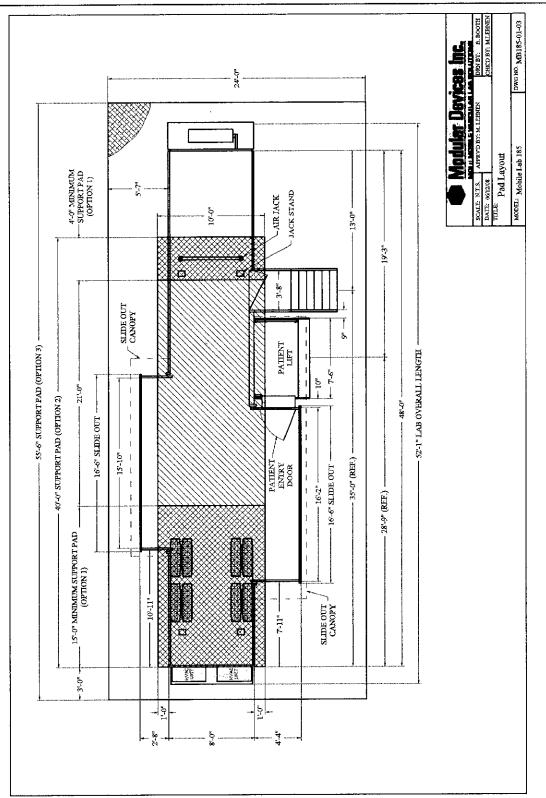


Figure 6: Fire, Telephone, Data Plan



## Figure 7: Pad Layout



## Equipment List - Lab 48

Exhibit "A"



Imaging:

Injector:

Siemens MAGNETOM Avanto 1.5T MRI Medrad Solaris Injector

## MRI Imaging System

### Siemens MAGNETOM Avanto 1.5T MRI System

For ultra-fast image acquisition. For a dramatic reduction in acoustic noise without compromising gradient performance. For the most comprehensive application range available today. For fast return of investment. For truly seamless workflow automation.

MAGNETOM Avanto gives you total flexibility, with innovative applications for each part of the body. And only Tim seamlessly scans up to 205 cm with no patient repositioning or coil changes. For true whole-body functionality.

#### Clinical perspective:

- Exceptional magnet homogeneity for excellent fat saturation
- Large 50 cm Field of View
- Strong gradients for high resolution
   and short scan times
- Unparalieled flexibility, accuracy, and speed – thanks to Tim
- Broad range of dedicated applications

#### **Product Description:**

- Magnetom Avanto 1.5T Syngo System
- Ultra Short 150 cm long, whole body superconductive 1.5T Magnet
- Magnetom Avanto Digital Radio
   Frequency System
- Syngo MR Software, Level B13
- Q-engine Gradient System with Audio Comfort – Max gradient amplitude of 30 mT/m, max slew rate 125 T/m/s
- 76 X 18 Q-engine. 76 elements and
- 18 independent RF channels • Inline diffusion
- BLADE
- CISS & DESS 3D DESS
- 3D CISS
- Standard Matrix Table
- Arm Rest for MR H/S
- PMU Wireless Physio Control
- TIM Total Imaging Matrix
- TIM (76x18) Q Engine 76 simultaneously connected coil elements with 18 independent RF channels

#### Patient perspective:

- Shorter-than-ever exam times with iPAT
- Up to 97% acoustic noise reduction
   with AudioComfort
- · Feet-first examinations with Tim
- No patient repositioning with Tim
- Ultra-lightweight coils with Tim (Body Matrix 950 g only)
- Highest level of diagnostic confidence

#### Coils to include:

- Head Matrix Coll (12 Element design)
- Spine Matrix Coll
- Neck Matrix Coll (4 Element design)
- Body Matrix Coil (6 Element design)
- CP Flex Coil Large
- · CP Flex Coil Small
- CP Extremity Coll
- Shoulder Array Coil

#### **Total Imaging Matrix Application Suites**

- Neuro Suite
- Angio Cardiac Suite
- Cardiac Suite
- Body Suite
- Onco Suite
- Ortho Suite
   Dediatric Suite
- Pediatric Suite
  Breast Suite
- Breast Suite
   Scientific Suite

Kodak DryView 8150 Laser Imager

Modular Devices Inc.

ONS

## Equipment List - Lab 48

Exhibit "A"

#### Fat saturation

MAGNETOM Avanto excels in cardiac MRI.With strong gradients, superb Parallel Imaging with syngo GRAPPA, and high magnet homogeneity. Everything desired for heart MRI.

#### Large FoV

50 cm Field of View provides a perfect view of pathologies.

#### Perfusion MRI

With strong gradients, MAGNETOM Avanto delivers excellent temporal and spatial resolution.

### Contrast Injection System

#### Medrad Solaris MRI Contrast Injector



#### Features ease-of-use and reliability:

- Designed for use in all MR Scanner field strengths up to and including 3.0T
- Optimized color touch-screen
- User-programmable phases for added flexibility
- Independent Keep Vein Open (KVO) allows more time to focus on the patient
- Fiber optic technology enables direct, reliable communication
- · Longer battery life with increased capacity



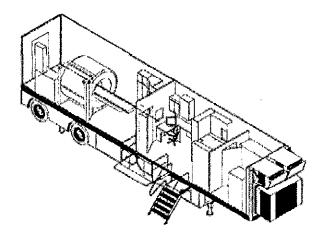




SITE PLANNING GUIDE

48' MOBILE MRI SYSTEM AVANTO (Transportable at Field)

Manufactured by MEDICAL COACHES, INCORPORATED



Proper site preparation for special-purpose mobile units is critical to their successful operation. This guide has been assembled to provide you with detailed site planning and preparation data specifically for the SIEMENS MRI System installed in a Medical Coaches Mobile Unit.

The information compiled and provided should be sufficient to cover most site planning requirements. If additional questions do arise, please contact Medical Coaches directly. See page 1.

Medical Coaches continues to learn from our valued customers. We invite your comments and suggestions on any improvements to this document, and sincerely appreciate your past contributions.

The confidential information contained herein is the properly of Medical Coaches, Inc. and may only be used by our customers.

January 31, 2006 123296 Rev F

### SITE PLANNING GUIDE REVISION SHEET

### 48' Mobile MRI System Avanto

COVER REV	PAGE NO.	DESC RIPTION OF CHANGE:	<u>Unit &amp;</u> Date
_	ALL	INITIAL RELEASE	6/7/04
A	8, 11 & 12	Changed Sales Drawing D20250 was D13262 also inserted 6385 revised Magnetic Field Level Grid, Ref D13265 Sheet 1, also revised D13263 Drawing to Rev. A	1/4/05 6385 +
В	5 13	In Section 4.0 Phone and Data service. Rewrote sections covering Phone Lines #1, #2 & line specifically for Siemens remote diagnostics circuit. Also added description of Line #1 & Line #2 also Data #1, Data #2 & Data #3. Also Revised Drawing D20250 To Rev. A	7/10/05 6392 +
	13	Revised drawing D20250 To Rev. B removed film viewer and changed cabinet to double doors.	- 6395 +
С	11 & 12	Changed drawing on page #12 to D20500 showing Fringe Field Depiction, was D13265 Sheet 1 and also the section under 7.0 Magnetic Shielding was rewritten to describe Fringe Field Depiction in place of the grid method.	
D	3	Changer Voltage Variation in section 2.1 +/- 10% was +/-6%.	6397 +
E	3	Added (150 amps if Symphony is installed) in section 2.1	Symphony + Trailers
F	15	Revised Lettering Guide Drawing D13261 to Rev. B	6398+ 1/31/06

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### 1.0. SUPPORT PAD REQUIREMENTS:

The following is a list of recommendations and requirements for a concrete support pad.

### 1.1. MOBILE MRI TRAILER RECOMMENDED SUPPORT PAD

A full pad measuring 43' long by 10' wide should be located as shown on the drawing on page 2. Minimum support pads (cross-hatched area on drawing) are also shown. The minimum pads are not recommended because they may not accommodate future mobile systems servicing the site.

### 1.2. SUPPORT PAD DEPTH:

Recommendations for length and width of pad are given above. However, the depth should be determined by a local contractor based upon weight distribution information given on drawing on page 2 and existing site conditions. If ferrous rebar is to be used in concrete pad, contact Siemens or Medical Coaches, Inc. about field setup specifications.

### 1.3. SUPPORT PAD LEVELNESS:

The SIEMENS' Mobile MRI System requires that the support pads be LEVEL FOR PROPER OPERATION. Pad must not exceed 0.25" deviation in 10' 0".

NOTE: A local licensed engineer or architect should determine actual site design. Site design is the responsibility of the purchaser or end users!

### CAUTION!

STRICT ATTENTION MUST BE PAID TO PAD LEVELNESS! FAILURE TO SUPPLY LEVEL PAD CAN CAUSE DIFFICULTIES IN MRI SYSTEM OPERATION.

### 1.4. RECOMMENDED SERVICE PAD DIMENSIONS: A service pad measuring 20 feet by 54 feet should be located as shown on the drawing on page 2 for ease of service access (dotted line on drawing).

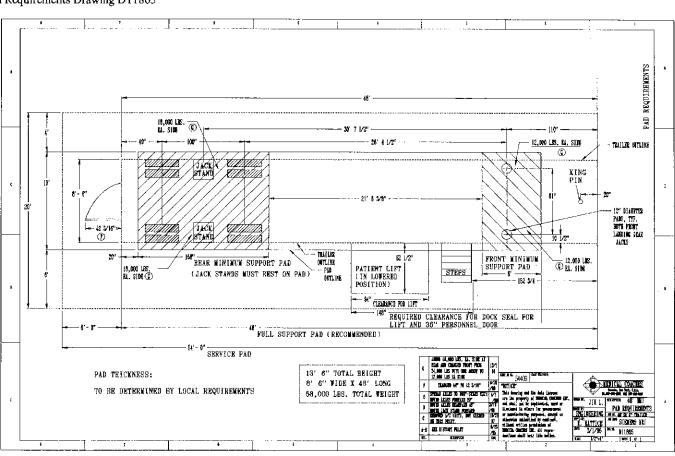
### 1.5. ATTACHING TO BUILDING:

If using a dock seal or similar inflatable seal to attach the Mobile Unit to a building, pages 2 and 9 can be used as guides.

If you require assistance, please contact us directly. TEL 607-432-1333 or FAX 607-432-8190

Len Marsh, Extension 108 Executive Vice President, Chief Operating Officer, and MRI Sales Manager Paul Kankiewicz, Extension 101 Division Manager, Technical Support Division

R. E. Mattice, Extension 123 Vice President of Engineering and Chief Engineer



#### Pad Requirements Drawing D11865

Site Planning Guide 123296 Rev. F

### 2.0. <u>CUSTOMER POWER REQUIREMENTS:</u>

A single electrical power source is required for operation of the Mobile Siemens MRI System.

2.1. ELECTRICAL SERVICE:

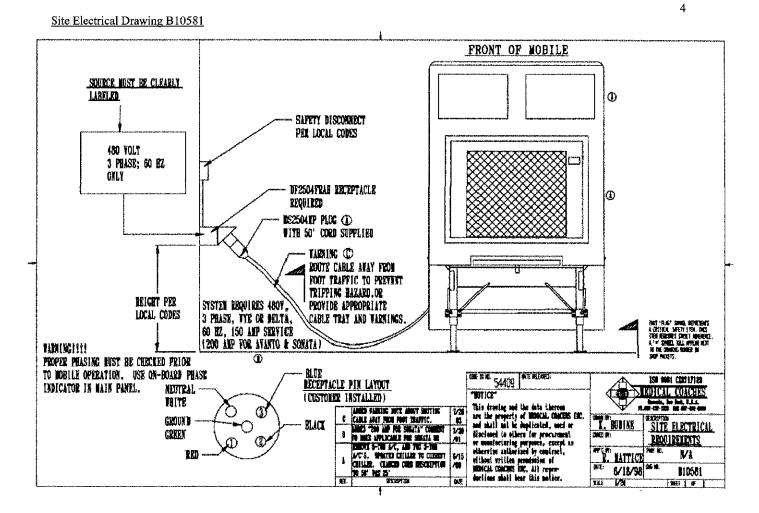
480 VOLT, AC, 3-phase, fused 200 amps (150 amps if Symphony is installed). Maximum allowable line voltage variation is  $\pm$ -10 percent (432-528 VAC). Phase Balance should be with 2%. See page 11 for regulations.

- 2.2. CONFIGURATION: Three-phase Delta or WYE connection with ground.
- 2.3. FREQUENCY: 60 hertz +/- 0.5 hertz.
- 2.4. SHORELINE CABLE:

A 50 foot shoreline wired directly to trailer is provided for connecting the mobile unit to hospital power. The shoreline is located in the rear skirt compartment and may be drawn from either side of the trailer. The end has a Russell-Stoll DS2504MP to mate with the site receptacle.

2.5. CUSTOMER RECEPTACLE:

The facility must have the matching receptacle as specified by the drawing on page 4, customer must supply this receptacle. This receptacle is a Russell-Stoll DF2504FRAB, and is not provided with the trailer.



Site Planning Guide 123296 Rev. F

### 3.0. WATER SUPPLY REQUIREMENTS:

Only a 3/4-inch cold water garden hose is required. This unit can be operated either with water line connected and pressurized or disconnected, providing tank is <u>refilled</u> as needed. Connection is located in rear curbside compartment next to tank.

### 3.1. TRAILER:

The water fill connection is in the curbside rear compartment. A special opening is provided in the bottom of the compartment.

#### 3.2. COLD WATER PROTECTION:

All on-board tanks and lines are weather protected. The site must provide for weatherprotected supply line to prevent freeze up.

### 4.0. TELEPHONE AND DATA SERVICE:

This mobile system is supplied with one (1) telephone handset; three (3) phone lines (Line 1, Line 2 and Remote Diagnostic line): and three (3) data lines (Data 1, Data 2, and Data 3).

#### 4.1. PHONE LINES:

Two (2) marine-grade Hubbell PH6595 inlet receptacles are located in the front curbside compartment. These receptacles are labeled "Line 1" and "Line 2".

- Line 1 serves the Control Room main work station and the wall-mounted receptacle is located above the countertop.
- Line 2 serves the Control Room auxiliary work station and the wall-mounted receptacle is located above the countertop.

A third marine grade Hubbell PH6595 inlet receptacle is located in the front curbside compartment. This receptacle is labeled "Remote Diags".

• Remote Diags serves as the remote diagnostics circuit for the exclusive use of Siemens Medical Systems USA. Inc. personnel and the wall-mounted receptacle is located under the countertop of the main work station in the Control Room.

#### 4.2 DATA LINES (RJ45 RECEPTACLES):

Two (2) inlet receptacles are located in the front curbside compartment. These receptacles are labeled "Data 1" and "Data 2"

- Data 1 serves the Control Room main work station and the wall-mounted receptacle is located above the countertop.
- Data 2 also serves the Control Room main work station and the wall-mounted receptacle is located below the countertop.

A third data 3 line is provided for data transfer between the Control Room main and auxiliary work stations. The receptacles for this line are both located below the respective countertops and are both labeled "Data 3".

6

#### 4.3 PHONE AND DATA CONNECTION CABLES:

Two 50 foot connecting phone cables with Hubbell PH6599 receptacles at both ends are supplied for use with Line 1 and Line 2. These cables can be stored on the cord tender also provided and mounted on the inside of the front curbside compartment door,

No connection cables are provided for Data Lines or for the Diagnostic Line. These cables are the responsibility of the customer.

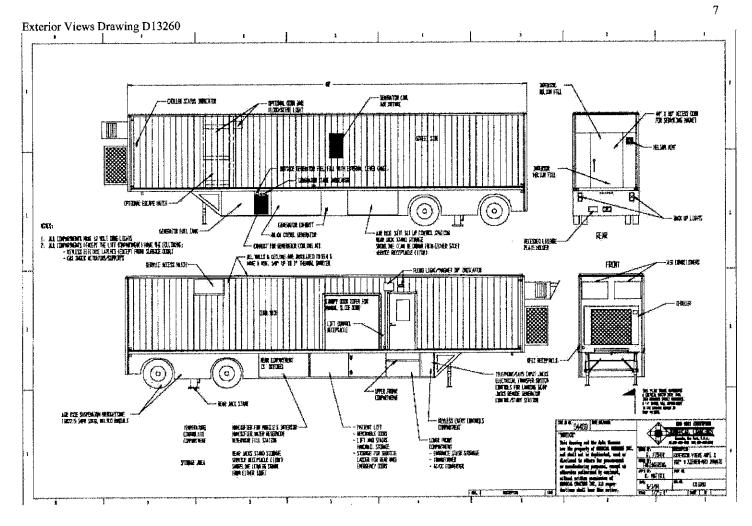
#### 4.4 SITE REQUIREMENTS:

#### Phone Lines

Each phone line requires a Hubbell PH6597 weatherproof outlet mounted in a Hubbell PH6619 weatherproof box located within 50 feet of the mobile system.

#### Data Lines

Each data line requires a standard RJ45 connector mounted in a weatherproof box. Weatherproof data boxes should be located in the same general area as the phone weatherproof boxes.



Site Planning Guide 123296 Rev. F

#### 5.0. SITE CLEARANCE REQUIREMENTS:

5.1. MOBILE UNIT CLEARANCE REQUIREMENTS: Refer to illustration on page 9 depicting clearance required around the mobile unit.

#### 5.2. SWING DIMENSIONS OF DOORS:

Swing dimensions are shown for all compartment doors, entrance door and canopy door. Service access should be an additional 36 inches to all dimensions shown (indicated on D13025 on page 9). These dimensions must be considered when contemplating parking near a building or other obstruction. Patient and staff access and egress should also be convenient to the mobile unit site.

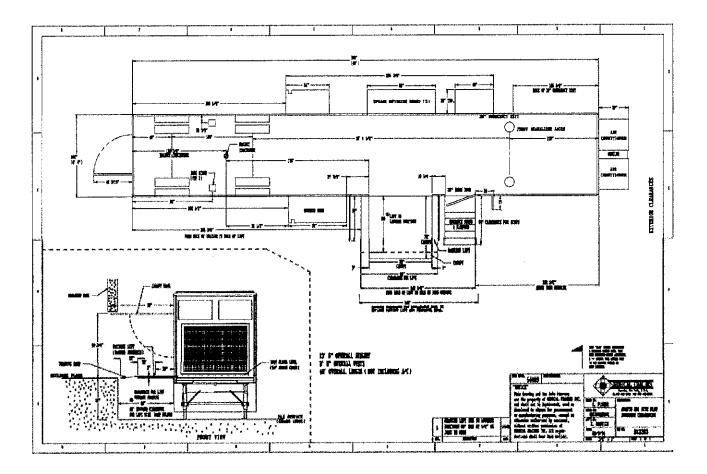
 5.3. OFF-TRACKING OF UNIT: Adequate and convenient access also must be provided for movement in and out of site by the mobile unit with proper attention paid to swing and turn radii. Sharp dips, curbs, bumps, and other road surface conditions can affect the mobile unit ground clearance and must be considered. See D11536 on page 10.

#### NOTES:

Lift compartment doors (center compartment on curbside, see page 7) are easily removable.

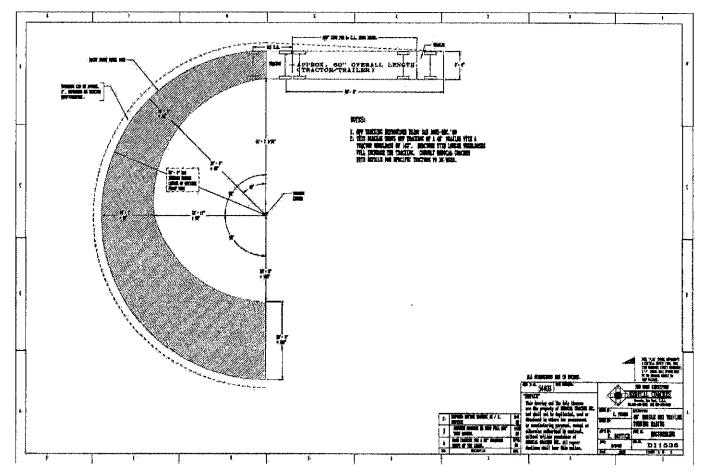
Special hinging arrangements are possible for the canopy. Please contact Medical Coaches if the standard arrangement is inconvenient.

#### Exterior Clearances Drawing D13263



Site Planning Guide 123296 Rev. F

### Trailer Turning Radius D11536



Site Planning Guide 123296 Rev. F

### 6.0 **REGULATIONS:**

This mobile unit has been designed to comply with Federal regulations in existence at time of manufacture. Local and State regulations may differ from site to site. It is the responsibility of each site to ensure that these regulations are met and encumber any costs associated with unique alterations or additional equipment required.

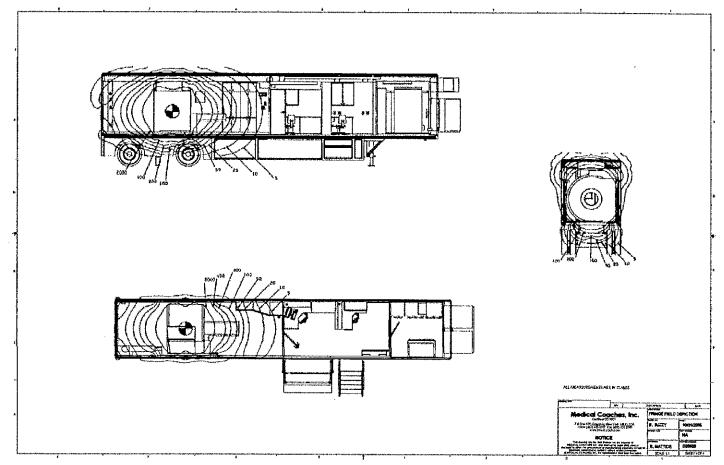
#### 7.0 MAGNETIC SHIELDING:

Magnetic shielding is contained within the side walls of the mobile unit. This mobile unit can be transported "at field". See the Fringe Field Depiction Drawing D20500 for, fringe field depiction, as a result of magnetic shielding. The 5 gauss line is within 8" of the trailer exterior to a height of 8' above grade.

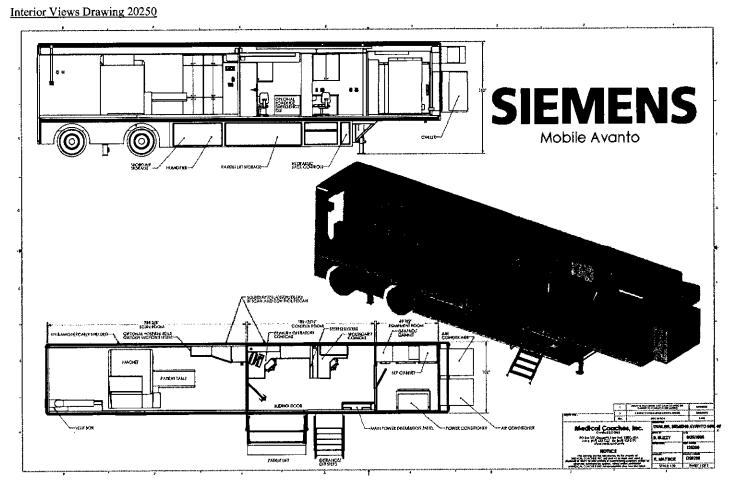
Extreme Caution must be followed when using or accessing the space above and below the trailer. This space is restricted for many uses and it is recommended to contact Siemens or Medical Coaches Inc. with specific questions about access to this space.

Image quality is directly related to stationary objects within a certain range of the magnet ISO center. For example, vehicle traffic, high power lines, etc. Contact Siemens for specific details.

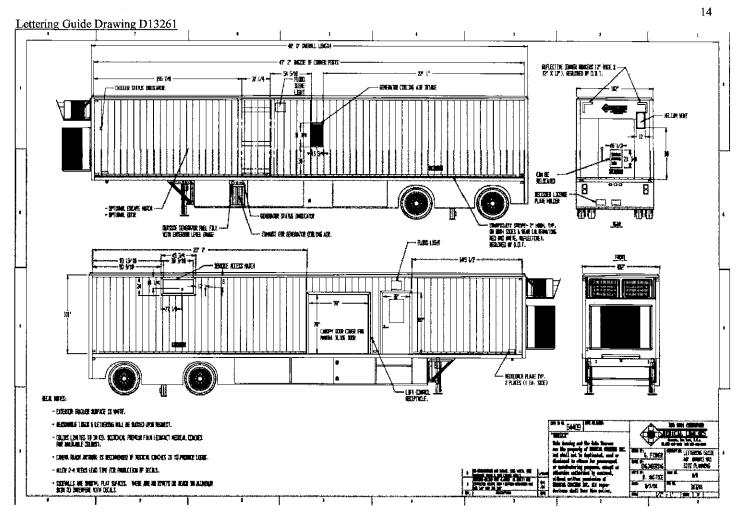
### Fringe Field Depiction Drawing D20500



Site Planning Guide 123296 Rev. F



Site Planning Guide 123296 Rev. F



Site Planning Guide 123296 Rev. F

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## **Monterey County**

**Board Report** 

Legistar File Number: A 21-044

Item No.17

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021

Version: 1

Current Status: Natividad Medical Center -Consent Matter Type: BoS Agreement

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute an agreement with RQI Partners, LLC for the HeartCode learning tool at NMC for an amount not to exceed \$88,208 with an agreement term of April 1, 2021 through March 31, 2024.
b. Authorize the Chief Executive Officer for NMC or his designee to execute up to three (3) future amendments to the agreement which do not significantly alter the scope of work and do not cause an increase of more than ten percent (10%) (\$8,820) of the original cost of the agreement.
c. Approve the NMC Chief Executive Officer's recommendation to accept non-standard insurance, limitations on liability, and limitations on damages provisions within the agreement.

#### **<u>RECOMMENDATION</u>**:

#### It is recommended the Board of Supervisors:

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute an agreement with RQI Partners, LLC for the HeartCode learning tool at NMC for an amount not to exceed \$88,208 with an agreement term of April 1, 2021 through March 31, 2024.
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c. Approve the NMC Chief Executive Officer's recommendation to accept non-standard insurance, limitations on liability, and limitations on damages provisions within the agreement.

#### **SUMMARY/DISCUSSION:**

A primary goal at Natividad is to offer our patients and their families high quality, safe patient care. One way we achieve this at Natividad is to require patient care staff to have a current Basic Life Support (BLS) certification and, depending on the acuity of patients in their area of expertise, additional certifications such as Advanced Cardiac Life Support (ACLS) and/or Pediatric Advanced Life Support (PALS).

RQI HeartCode Part I is an evidence based American Heart Association (AHA) program that assists in the Cardiopulmonary Resuscitation (CPR) education and skills provided by healthcare workers. BLS, ACLS, and PALS are components of this program. The AHA is accepted as the expert resource for high quality resuscitation clinical practice nationwide.

#### **Regulatory requirements:**

#### Joint Commission

"...organizations will be surveyed to the National, State and Organizational requirements for ACLS, BLS, and CPR Certification, and organizations should take steps as soon as possible to ensure staff have current certification to meet these requirements."

### Title 22

#### §70721. Employees

(e) Appropriate employees shall be given training in methods of hospital infection control and cardiopulmonary resuscitation.

Currently, Natividad Staff and Residents are assigned this essential resuscitation training through our HealthStream program. It allows Human Resources and the Nursing Education Department to electronically track assignments, completions, renewal dates, and provides easy access for staff.

In the past, Natividad purchased these learning tools from HealthStream; however, due to a change in HealthStream's process, Natividad will need to purchase them directly from RQI Partners, LLC. The contract with RQI Partners, LLC for the HeartCode learning tools for BLS, ACLS, and PALS will allow Natividad's Staff and Residents to continue receiving high quality Cardiopulmonary Resuscitation (CPR) training and competencies at Natividad via HealthStream and experience no change in the current process.

Natividad requests acceptance of the Natividad Chief Executive Officer's recommendations to accept non-standard risk provisions. This tool is a hosted subscription service for the purpose of staff education. It poses negligible patient privacy or information security risks as RQI Partners will not have access to hospitals systems nor will Natividad transmit any patient information (PHI) to the vendor though the course of this agreement.

#### **OTHER AGENCY INVOLVEMENT:**

The Office of County Counsel has reviewed and approved this agreement as to form, and the Auditor-Controller has reviewed and approved as to payment provisions. The agreement has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on February 12, 2021.

#### FINANCING:

The cost for this agreement is \$88,208, of which \$31,102 is included in the Fiscal Year 2020-21 Adopted Budget. Amounts for remaining years of the agreement will be included in those budgets as appropriate.

#### **BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

Natividad is dedicated to the people of Monterey County to provide the best possible care to each patient. It is critical that resources are available to staff that are evidenced based and current for delivering high quality and safe patient care.

Economic Development
 Administration
 X Health and Human Services
 Infrastructure
 X Public Safety

Prepared by: Susan Watson, MSN, RN, Interim Director of Nursing Education, 783-2851 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2504

Attachments: RQI Partners LLC Master Service Agreement

Attachments on file with the Clerk of the Board



## **Monterey County**

**Board Report** 

Legistar File Number: A 21-044

Item No.13

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021

Version: 1

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Economic Development
 Administration
 <u>X</u> Health and Human Services
 Infrastructure
 <u>X</u> Public Safety

Prepared by: Susan Watson, MSN, RN, Interim Director of Nursing Education, 783-2851 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2504

Attachments: RQI Partners LLC Master Service Agreement

Attachments on file with the Clerk of the Board

Dr. Gary R. Gray Dr. Gary R. Gray, Chief Executive Officer

<u>2/23/21</u> Date



## RESUSCITATION QUALITY IMPROVEMENT PROGRAM MASTER SERVICES AGREEMENT

This Resuscitation Quality Improvement ("RQI") Master Services Agreement ("Agreement") is entered into and effective as of **April 1, 2021**. ("Effective Date") by and between **RQI Partners, LLC** ("RQIP"), a Delaware Limited Liability Company with its principal place of business at 7272 Greenville Ave., Suite P2020, Dallas, Texas, 75231 and the **County of Monterey, on behalf of Natividad Medical Center**, an acute care hospital, having its principal place of business at 1441 Constitution Blvd., Salinas CA 93906 ("Customer"). Collectively, RQIP and Customer are referred to as the "Parties." *RQIP is a partnership between the American Heart Association and Laerdal Medical*, specifically established to sell, service and support their Resuscitation Quality Improvement Program for customers on their behalf.

#### 1. Definitions.

*"Program" or "RQI"* means the Program portfolio as described in Section 2 and the subject of this Agreement. *"HeartCode"* means the branded program, or its successors, which forms a part of the RQI Portfolio and delivers a program eLearning activity to enable learners to achieve a traditional AHA course completion ecard.

*"System Implementation" or "Implementation"* means the satisfactory installation of any equipment to be provided as a part of the service, and proof that the system is operational evidenced by implementation of systems for ten users.

"Order Form" means the ordering document representing purchase of any Services agreed to between the parties signed under this Agreement. The term "Order Form" also includes any subsequent document intended by the Parties to effect a change to the Service, such as a Change Request Form or Order Modification Form. "Service" means all services ordered by the Customer to be included in RQI Order Forms that are subject of this Agreement.

"Users" means Customer's employees, consultants, contractors, clients or agents who are authorized to use the Service and have been supplied user identifications and passwords by Customer, or by RQIP at Customer's request.

#### 2. Program Description – Resuscitation Quality Improvement (RQI).

The RQI portfolio of Programs is a system developed jointly by the American Heart Association and Laerdal Medical AS to assist in the continuous improvement of resuscitation skills provided by healthcare workers. RQI Partners, LLC, is a joint venture of the American Heart Association and Laerdal Medical Corporation established to sell, service and support the RQI Program.

The Program utilizes a variety of learning tools to assist in competence development through frequent, small quantities of learning activities, including performance feedback and measurement. The Program implemented at Customer site includes some or all the following as specified in an Order Form:

- **Skills learning activities** for the practice of resuscitation skills using special simulation learning stations deployed at all locations;
- Simulation Stations that include all necessary equipment to ensure completion of skills learning activities;
- *Simulations & Feedback By Telephone* to allow emergency call takers to improve competence in guiding bystanders through critical resuscitation skills;



- *Knowledge and decision-making e-learning activities* and may include interactive web-based and video content;
- *HeartCode Program* an e-learning system which provides an alternative method of delivery of traditional AHA healthcare provider and course completion ecard;
- Learning management system to ensure the suitable management of learning activities within, reporting and administration of the Program;
- Debriefing of Case Performance to provide guidance on system improvement;
- **Rolling electronic eCredential maintenance** system that maintains the electronic credential for Verified Competence, compliance documents for the Customer, and the validity periods;
- **Get With The Guidelines -Resuscitation** system for collection of data and measurement of system improvement. Customers electing to engage in the Get With The Guidelines (GWTG) system on an Order Form under this Agreement, must also have completed an American Heart Association Get With The Guidelines Unified Participation Agreement to be eligible in that activity.

#### 3. Service.

- **3.1.** *Provision of Service.* Customer agrees that the purchase of User subscriptions for Service is not contingent upon the delivery of any future functionality or features, nor is it dependent upon any oral or written public comments made by RQIP with respect to future functionality or features.
- **3.2.** *Additional Users.* User subscriptions for the Service are for named Users and cannot be shared or used by more than one User but, except for HeartCode licenses, may be reassigned by Customer to new Users replacing former Users who have separated from employment, changed job status or function, or otherwise no longer require ongoing use of the Service. HeartCode licenses are considered consumed at User commencement in the Program and may not be assigned. Customer acknowledges that RQIP may conduct usage audits and invoice Customer, and Customer agrees to pay, for any usage above the number of subscriptions specified in Customer's Order Forms, and also adjust future billing rates to the new subscription level indicated by Customer's actual usage. Unless otherwise specified in the relevant Order Form:
  - (a) the term of the additional User subscriptions shall be coterminous with the expiration of the then current subscription term; and
  - (b) pricing for the additional User subscriptions shall be the same as that for the pre-existing subscriptions, prorated for the remainder of the then current subscription term.
- **3.3.** *Administrative Users.* Each subscription will include a number of User accounts that include limited system administration features, the number of which shall be agreed from time to time between the parties.
- **3.4.** *Authorized Support Contacts.* Customer will designate one or more Administrative Users who are authorized to invoke technical support and permit technical support technicians to access and make changes to Customer's Services.

### 4. Use of the Service.

The Service included in the Fees stated on the Order Form may include:

**4.1.***Simulation Learning Stations*- all equipment for skills simulation activities as provided on the Order Form (not including the use of any consumables required to operate the equipment). Except in the case of an out of box failure or product defect, Customer is responsible for replacing manikin faces and lungs, wipes, adult and infant



bag, adult and infant clothing. Customer acknowledges that in receiving the Service it does not take title or ownership to any of the equipment provided for the Services under this Agreement.

- **4.2.System Implementation** services to ensure that equipment installed at the Customer's site is operational and that site administrators have been orientated to enable them to manage and operate the provided systems. An Implementation Fee shall be included on the Order Form to cover such establishment charges.
- **4.3.** *Equipment Support* services to ensure that the provided equipment for the Service remains operational and functional. In the case of failure of equipment RQIP will, as far as commercially reasonable, undertake to repair or replace at its own discretion and expense within five working days of the reported failure.
- **4.4.***Customer Support* standard telephone and online support to Customer's Authorized Support Contacts during normal RQIP Support Hours (generally Monday-Friday, 8 a.m. to 8 p.m. and Saturday 10 a.m. to 6 p.m. Eastern time, except holidays), which are subject to change.
- **4.5.** *Software and Data Handling* use of commercially reasonable efforts to make the Service available 24 hours a day, 7 days a week, except for: (i) planned downtime; or (ii) any unavailability caused by circumstances beyond RQIP's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, acts of terror, strikes or other labor problems (other than those involving RQIP employees), computer, telecommunications, internet service provider or hosting facility failures or delays involving hardware, software or power systems not within RQIP possession or reasonable control, and network intrusions or denial of service attacks. RQIP service level commitments will be in accordance to the RQI Partners Service Levels, Practices, and Commitments document attached hereto as Exhibit B.
- 5. Customer Responsibilities. Customer is responsible for all activities that occur under Customer's User accounts. Customer shall: (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (b) use commercially reasonable efforts to preserve and care for the Simulation Learning Stations and prevent unauthorized access to, or use of, the Service, and notify RQIP promptly of any unauthorized use; (c) comply with all applicable local, state, federal, and foreign laws in using the Service and not use the Service in a manner that would violate any federal or state laws of the United States; and (d) not move any RQIP equipment beyond the designated facility where it was installed, modify, dispose of, transfer or otherwise devalue the Simulation Learning Stations without prior written approval by RQIP.

## 6. Fees & Payment.

- **6.1.** *Fees.* Customer shall pay all fees specified in all executed Order Forms. Except as otherwise stated on an Order Form, all fees are quoted and paid in United States dollars. In the case of the Service, and except for Implementation Fees and other services as stated on an Order Form:
  - (a) fees are based on the number of User subscriptions purchased on the relevant Order Form, not the extent of actual usage;
  - (b) fees are refundable on a pro-rated basis as related only to termination of this agreement; and
  - (c) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form.
- **6.2.** Customer Invoicing & Payment. Customer shall provide complete and accurate billing and contact information to RQIP and notify RQIP of any change to such information. Fees for the Service will be invoiced in advance in accordance with the terms set forth in the relevant Order Form. Unless otherwise stated in the



Order Form, charges are due net thirty (30) days from receipt of a certified invoice by the Monterey County Auditor-Controller.

- **6.3.** System Implementation and Subscription Fees. Upon completion of equipment delivery and System Implementation as defined in Section 1 of this Agreement RQIP will initiate immediate billing for the Implementation Fees. Unless otherwise provided on the Order Form, the fees for the subscription, and associated billing, on the Service shall commence on the initiation of the first subscription being activated.
- **6.4.** Taxes. Unless otherwise stated, RQIP's fees do not include any local, state, federal or foreign taxes, levies or duties of any nature ("Taxes"). Customer is responsible for paying all Taxes, excluding only taxes based on RQIP's income. If RQIP has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer unless the Customer qualifies for exemption of some or all of the Taxes and Customer provides RQIP with a valid tax exemption certificate authorized by each appropriate taxing authority.
- **6.5.** *Suspension of Service.* If Customer's account is ninety (90) days or more overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any of its other rights or remedies, RQIP reserves the right to suspend the Service provided to Customer, without liability to Customer, until the overdue amounts are paid in full.

## 7. Proprietary Rights.

- 7.1. Reservation of Rights. Customer acknowledges that in providing the Service, RQIP utilizes (a) trademarks and service marks; (b) certain audio and visual information, documents, software and other works of authorship; and (c) other technology, software, hardware, products, know-how and other trade secrets, designs, inventions and other tangible or intangible technical material and other intellectual property licensed to RQIP (collectively, "RQIP Licensed IP") and that the RQIP Licensed IP is covered by intellectual property rights licensed to Customer under this Agreement (collectively, "RQIP IP Rights"). Other than as expressly stated in this Agreement, no license or other rights in or to the RQIP Licensed IP or RQIP IP Rights are granted to Customer, and all licenses and rights are expressly reserved.
- **7.2.** *License Grant*. To the extent Customer orders Services under this Agreement, RQIP grants Customer and its Users a worldwide, non-exclusive, non-transferable, non-sublicensable right to access and use the Service in accordance with the terms of this Agreement.
- **7.3.** *Restrictions.* Customer shall not (a) modify, copy or create derivative works based on the Service or RQIP Licensed IP; (b) create Internet "links" to or from the Service, or "frame" or "mirror" any content forming part of the Service, other than on Customer's own intranets; (c) disassemble, reverse engineer, or decompile the Service or RQIP Licensed IP, or access it in order to (i) build a competitive product or service; (ii) build a product or service using similar ideas, features, functions or graphics of the Service; or (iii) copy any ideas, features, functions or graphics of the Service; or (d) permit any use, removal or changes to any branding marks or logos on any components of the Service.

## 8. Customer Data.

**8.1.** *General.* As between RQIP and Customer, all data obtained by RQIP from Customer through the provision of the Service, including all data results compiled by RQIP in providing the Service ("Customer Data") is owned exclusively by Customer. Customer Data shall be considered Confidential Information subject to the terms of



this Agreement. Customer grants RQIP, the American Heart Association and Laerdal Medical, an unrestricted, royalty-free, irrevocable license to maintain and distribute aggregated compilations of Customer Data ("Aggregated Data") and to use such Aggregated Data for future studies and reports; provided, that the Aggregated Data will not reveal any personal information or the identity of Customer or any information in violation of FERPA (as defined below).

**8.2.** Learning Service Data. RQIP may access Customer's User accounts, including Customer Data, solely to respond to service or technical problems or at Customer's request. Customer agrees that RQIP may distribute certain Customer Data to support service, licensing and accreditation organizations for the benefit of Users. RQIP will release the minimum data required to adequately credit Users for educational activities completed.

## 9. Confidentiality.

- 9.1. Definition of Confidential Information. As used in this Agreement, "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential at the time of disclosure or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure Confidential Information expressly includes all proprietary information and details that are generally considered "trade secrets" in the medical education and quality improvement services, medical and health-related technology and resuscitation technology industries. Confidential Information (except for Customer Data) shall not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party; (c) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (d) is received from a third party without breach of any obligation owed to the Disclosing Party; confidential information of RQIP does not include information that is or becomes publicly known or available as a result of Customer's proper compliance with the California Public Records Act.
- **9.2.** *Confidentiality.* The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind. If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.
- **9.3.** *Remedies.* If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of this <u>Section 9</u>, the Disclosing Party shall have the right, in addition to any other remedies, to seek injunctive relief, restraining order or other equitable relief to prevent breaches of this Section 9, it being specifically acknowledged by the parties that a violation of any of the terms of this Section 9 will cause the Disclosing Party irreparable injury for which adequate remedy at law is not available.

### 10. Warranties.

- 10.1. General. Each party represents and warrants that it has the legal power to enter into this Agreement. RQIP represents and warrants that (i) it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision of the Service; (ii) it owns or otherwise has sufficient rights to the Service and the RQIP Licensed IP to grant the rights and licenses granted in this Agreement; and (iii) the Service, RQIP Licensed IP and RQIP Licensed Rights do not infringe any intellectual property rights of any third party.
- **10.2.** *Non-Exclusion*. RQIP represents and warrants that RQIP, its officers, directors, and employees (i) are not currently excluded, debarred, or otherwise ineligible to participate in the federal healthcare programs as defined in 42 U.S.C. §1320a-7b(f) (the "federal healthcare programs"), (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services and have not been excluded, debarred, or otherwise declared ineligible to participate in the federal healthcare programs, and (iii) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in RQIP being excluded from participation in the federal healthcare programs. This shall be an ongoing representation and warranty and RQIP shall immediately notify Customer of any change in the status of the representations and warranty set forth in this section. Any breach of this section shall give Customer the right to terminate this Agreement immediately for cause.
- 10.3. FERPA. RQIP represents and warrants that it will not disclose any information in violation of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and the Family Educational Rights and Privacy Act Regulations (34 CFR Part 99), as amended or otherwise modified from time to time, and that Education Records, as defined by FERPA, shall remain in the ownership of Customer.
- **10.4.** *Disclaimer.* EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, RQIP MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. RQIP SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

# 11. Mutual Indemnification.

RQIP shall defend, indemnify, save, and hold harmless Customer its trustees, officers, employees and agents from and against any and all judgments, damages, costs and expenses, including reasonable attorney's fees, paid or incurred by Customer to the extent arising out of any claim, action or proceeding for the negligent acts or omissions of RQIP.

Customer shall defend, indemnify, save, and hold harmless RQIP its officers, employees and agents from and against any and all judgments, damages, costs and expenses, including reasonable attorney's fees, paid or incurred by RQIP to the extent arising out of any claim, action or proceeding for the negligent acts or omissions of Customer.

# 12. Limitation of Liability.

12.1. Limitation of Liability. EXCEPT FOR LIABILITY ARISING UNDER SECTIONS 6 (PAYMENT OF FEES), 7.3 (RESTRICTIONS), 9 (CONFIDENTIALITY), and 11 (INDEMNIFICATION), IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AGGREGATE LIMITS OF THE INSURANCE AS STATED IN SECTION 17.

RESUSCITATION QUALITY IMPROVEMENT<sup>®</sup>

American Heart Association<sup>6</sup>

and Laerdal®Program

- **12.2.** *Exclusion of Consequential and Related Damages.* EXCEPT FOR LIABILITY ARISING UNDER SECTIONS 9 (CONFIDENTIALITY) and 11 (INDEMNIFICATION), IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THE DAMAGE.
- **12.3.** *Limitation of Action.* Except for actions for non-payment or breach of either party's intellectual property rights, no action (regardless of form) arising out of this Agreement may be commenced by either party more than two (2) years after the cause of action has accrued.

### 13. Term & Termination.

- **13.1.** *Term of Agreement.* The Initial Term of this Agreement begins on April 1, 2021 and continues through March 31, 2024.
- **13.2.** *Term of User Subscriptions.* User subscriptions for Services commence on the start date of the first subscription commences and continues for the subscription term specified in the Order Form. The parties may agree to extend the Term of this Agreement, providing that the extension is approved in writing by both parties on an Order Form and states the conclusion date of the extended term and the price for the respective subscriptions and services.
- **13.3.** *Termination for Cause.* A party may terminate this Agreement for cause: (a) upon thirty (30) days written notice of a material breach to the other party if the breach remains uncured at the expiration of the cure period; or (b) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Upon any termination for cause by Customer, RQIP shall refund Customer any prepaid fees for the Service for the remainder of the User subscription term after the date of termination. Termination shall not relieve Customer of the obligation to pay any fees accrued or payable to RQIP prior to the effective date of termination.
- **13.4.** *Termination for any reason.* Either party reserves the right to terminate this Areement on the first anniversary of the commencement of the first subscription, provided that 90 days' notice is given in advance of that date. Thereafter, the Agreement may be terminated without cause with 180 days advanced notice in writing.

## 13.5. *Effect of Termination.*

- (a) No Release. The expiration or termination of this Agreement, for any reason, shall not release either Party from any obligation or liability to the other party under this Agreement that has already accrued, including any payment obligation, or that accrues between notice of termination and the effective date of termination. Following the termination of this Agreement, RQIP will invoice the Customer for any outstanding fees and expenses due and owing under this Agreement, and the Customer shall pay all such amounts to RQIP in accordance with the payment terms set forth in Section 6.
- (b) *Return of Materials.* Upon termination of this Agreement, Customer shall:
   (i) in accordance with instructions given by either RQIP or its Service Provider, use reasonable care to remove any RQIP Equipment located at the Customer's premises, package all items, and insure and safely return such equipment to the address specified at the expense of the customer;



(ii) provide reasonable cooperation and assistance to and appropriate access by RQIP or its Service Provider for deactivating the Services; and, if applicable, removing equipment; and
(iii) if termination was by RQIP for cause or for convenience by Customer, pay all reasonable fees and expenses related to the deactivation, removal, packaging, shipping and delivery of, and any tangible items related to, the Services, including travel costs if work at Customer's location(s) is required.

**13.6.** *Surviving Provisions.* The following provisions shall survive any termination or expiration of this Agreement: Sections 5 through 9, 11, 12, and 16 and paragraph 13.4.

## 14. General Terms for Order Forms

- **14.1.** *Governance Of Order Forms* An Order Form and the use of the Service(s) ordered shall be governed in all cases by this Master Services Agreement between RQIP and Customer. An Order Form shall state the date of the Agreement, any services or changes to be covered by the Order Form, pricing for any services to be provided under the Order Form, and any special conditions. Any additional terms and conditions specific to the Service(s) shall not be effective until the Order Form is signed by authorized representatives of both parties. If an Order Form is to be agreed between the parties at the time of signing this Agreement, it shall be included as Exhibit A and shall be considered authorized by the signing of this Agreement.
- **14.2.** *Subscriptions On Order Forms* The number of active users in the Program subscriptions may be assessed on the first day of each calendar quarter, and additional users beyond the quantity in the Master Services Agreement (MSA) and/or any Order Form(s) shall be added to such MSA and Order Form(s) and subject to billing at the point assessed. The Order is intended by both parties to run for the full term for each Service in the Order Details, and the parties acknowledge by signing the Order Form that they are aware of the current expiration date of the Agreement and the provisions for renewal and termination.

## 15. General Provisions.

- **15.1.** *Relationship of the Parties.* This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.
- **15.2.** *Notices.* All notices under this Agreement shall be in writing and given to the party's address first written above, and shall be deemed to have been given, unless returned due to delivery problems, upon the earliest of: (a) personal delivery; (b) written confirmation of receipt by the other party; or (c) the second business day after mailing.
- **15.3.** *Publicity.* Neither party may issue press releases relating to this Agreement without the other party's prior written consent.
- **15.4.** *Waiver and Cumulative Remedies.* No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated in this Agreement, the remedies provided in the Agreement are in addition to, and not exclusive of, any other remedies of a party at law or in equity.
- **15.5.** *Severability.* If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.



**16. Assignment.** Neither Party shall assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the other Party. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the other Party. Notwithstanding any such subcontract, each Party shall continue to be liable for the performance of all requirements of this Agreement.

### 17. Insurance.

**17.1.** Evidence of Coverage:

Prior to commencement of this Agreement, RQI Partners, LLC shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained.

This verification of coverage shall be sent to Customer's Contracts/Purchasing Department, unless otherwise directed. RQI Partners, LLC shall <u>not</u> receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and Customer has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of RQI Partners, LLC.

**17.2.** <u>Qualifying Insurers</u>: 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 Customer's Contracts/Purchasing Director.

**17.3.** <u>Insurance Coverage Requirements:</u> Without limiting RQI Partners, LLC duty to indemnify, RQI Partners, LLC shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

**17.4.** <u>Commercial General Liability Insurance</u>, 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, and subject to the terms and exclusions therein.

(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.)

Exemption/Modification (Justification attached; subject to approval)

**17.5.** <u>Business Automobile Liability Insurance</u>, 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.

(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.*)

Exemption/Modification (Justification attached; subject to approval)

**17.6.** <u>Workers' Compensation Insurance</u>, If RQI Partners, LLC employs other 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 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.*)

Exemption/Modification (Justification attached; subject to approval)

**17.7.** <u>Professional Liability Insurance</u>, 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, RQI Partners, LLC 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 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.)

Exemption/Modification (Justification attached; subject to approval)

### 18. Other Insurance Requirements:



**18.1.** All insurance required by this Agreement shall be 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 RQI Partners, LLC completes its performance of services under this Agreement.

**18.2.** Customer 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.

**18.3.** Prior to the execution of this Agreement by Customer, RQI Partners, LLC shall file certificates of insurance with Customer's Contracts/Purchasing Department, showing that RQI Partners, LLC has in effect the insurance required by this Agreement. RQI Partners, LLC 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.

**18.4.** RQI Partners, LLC 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 Customer, annual certificates to Customer's Contracts/Purchasing Department. If the certificate is not received by the expiration date, Customer shall notify RQI Partners, LLC and RQI Partners, LLC shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by RQI Partners, LLC to maintain such insurance is a default of this Agreement, which entitles Customer, at its sole discretion, to terminate the Agreement immediately.

- 19. Governing Law and Venue. This Agreement shall be governed exclusively by the internal laws of the State of California, without regard to its conflicts of laws rules. The state and federal courts located in the State of California shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party consents to the exclusive jurisdiction of these courts. Each party also waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.
- **20.** Entire Agreement. This Agreement, including all exhibits and addenda and all Order Forms signed under this Agreement, constitutes the entire agreement between the parties, and supersedes all prior agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the parties. In the event of any conflict between the provisions in this Agreement and any exhibit or addendum, or Order Form, the terms of the exhibit, addendum or Order Form shall prevail to the extent of any inconsistency. Notwithstanding any language to the contrary within it, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.
- **21. Counterparts.** This Agreement may be executed in counterparts, either in physical or digital form, which, taken together, shall form one legal instrument.

AGREED



### **RQI** Partners, LLC

C By: Print Name: Christopher DEsposito Title: VP. Customer Impact Date: 1/22/2021

County of Monterey, on behalf of Natividad Medical Center

Ву:\_\_\_\_\_

Print Name:

Title:\_\_\_\_\_

Date:

**Reviewed for Fiscal Provisions** 

Gary K Giboney

1-27-2021

Reviewed and approved as to form.

Jacyte

Deputy County Counsel 1/27/2021



An American Heart Association and Laerdal®Program

Quotation

### **Exhibit A**

# Target Go Live: 1/1/2021



An American Heart Association and Laerda \* Program Quote #: Date: Expires On: Q-02243-2 1/20/2021 60 Days From Quotation Date

### **RQI Partners LLC**

7272 Greenville Avenue Dallas, Texas 75231 USA

Customer Susan Watson Natividad Medical Center 1441 Constitution Bivd Salinas, CA 93901 (831) 783-2851 watsonsv@natividad.com Senior Sales Manager: Suzanne Sands Email: suzanne.sands@rqipartners.com

### Initial and Implementation Fees

Number	PRODUCT NAME	CONTRACTED TERM	TOTAL QUANTITY	PRICE PER UNIT	TOTAL PRICE
1	HeartCode BLS Online Part 1	36	995.00	\$24.80	\$24,676.00
2	HeartCode ACLS Online Part 1	36	188.00	\$129.60	\$24,364.80
3	HeartCode PALS Online Part 1	36	195.00	\$129.60	\$25,272.00
4	Activation Fees	0	459.00	\$14.00	\$6,426.00
TOTAL				\$80,738.80	

TAX \$7,468.34

CONTRACT TOTAL: \$88,207.14

For Contract Term: 1/1/2021 - 12/31/2023.

This quote represents a good faith offer for services that, unless withdrawn onally or in writing by RQI Pratners prior to acceptance, are accepted by signing and returning to the representative who submitted to you. The agreement created by your acceptance guarantees the priorig indicated in the quote subject to additional terms and conditions that will be attached as a Master Services Agreement that you will have 30 business days to review and either acceptance period to pravid. You.

Customer acknowledges that RGI Partners may conduct usage audits and invoice Customer, and Customer agrees to pay for any usage above the number of subscriptions specified in the Customer's Order Forms. Except in the case of an out of box failure or product defect, customer is responsible for replacing manifelin faces and lungs, wipes, adult and infant bag, adult and infant clothing.

Page 1 of 1



Exhibit **B** 







Exhibit B - RQI Partners Service Levels, Practices, and Commitments Rev 2.0



An American Heart Association<sup>e</sup> and Laerdal®Program



RQI Partners Service Levels, Practices, and Commitments

# Service Details

The "RQI Service" consists of the RQI1Stop learning platform and the RQI Course Content.

Service Availability

The RQI Service will be available 99.9% of the time, excluding scheduled maintenance periods defined below.

Monitoring

The RQI Service is monitored continuously for availability, stability, security & quality by our Cloud Operations Team & Security Operations Team.

# Revision History

Revision Number	Effective Date	Notes
1.0	03/02/2020	Initial version
2.0	06/29/2020	Renamed document. Updated Cloud Ops contact phone number.

# Definitions

RQI Site Administrator: The organization's representative that manages the RQI1Stop system.

# Scheduled Maintenance & Downtime

Maintenance is scheduled & executed regularly. Most often, scheduled maintenance does not result in downtime. In the event that downtime of the RQI Service will be needed for maintenance, the downtime will be communicated to the RQI Site Administrators via email two weeks ahead of time.

During maintenance events that require downtime, the RQI1Stop site will provide an update of when the RQI Service is expected to be available.

# Severity Levels

Service issues are categorized as follows:

- Severity Level 1 A complete RQI Service failure. An error renders the RQI Service inaccessible or inoperable.
- Severity Level 2 All or some substantial functionalities of the RQI Service are inoperable, but a workaround exists.
- Severity Level 3 Customer is impacted, but there is not a substantial disruption to customer operations.

Rev 2.0 - 06/29/2020

Page 2 of 4





An American Heart Association® and Laerdal®Program



RQI Partners Service Levels, Practices, and Commitments

# Severity Level 1 Reporting Instructions for Clients

### During Normal Business Hours:

Customers should call the RQI Customer Support Team (contact information below). In the event that the call cannot be answered, e.g., due to high call volume, the customer can leave a voicemail.

After Normal Business Hours:

Customers should contact the Cloud Operations Team at the following:

- CloudOps@Laerdal.com
- +1 (888) 764-3990

# Severity Level 2 & 3 Reporting Instructions for Clients

Learners should contact their RQI Site Administrator for assistance with issues.

If the RQI Site Administrator cannot resolve the issue, the RQI Site Administrator should contact their RQI Impact Manager.

If the RQI Impact Manager cannot be reached, the RQI Site Administrator will contact the RQI Customer Support Team directly. If the RQI Impact Manager cannot resolve the issue, the RQI Impact Manager should contact the RQI Customer Support Team.

The RQI Customer Support Team will attempt to resolve the issue, or the issue may be escalated to the Application or Cloud Operations Team. The RQI Customer Support Team will keep the RQI Site Administrator informed of the resolution progress.

## Response Times

 Severity Level 1 – Information related to Severity Level 1 incidents will be posted on the website, and emailed to RQI Site Administrators immediately, as the details become available.

The following response times are for when a client contacts the RQI Customer Support Team via email / voicemail message.

- Severity Level 2 The client will receive a response within 4 working hours (i.e., potentially the next business day).
- Severity Level 3 The client will receive a response within 1 business day (i.e., potentially the next business day).

## **Resolution Times**

- Severity Level 1 The resolution time for a Severity Level 1 incident is 4 hours.
- Severity Level 2 and 3 If the resolution requires a change in the current code base, RQI
  Partners will make commercially reasonable efforts to resolve Severity Level 2 and 3 incidents in
  the next development sprint (i.e., up to 4 to 8 weeks).

Rev 2.0 - 06/29/2020

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An American Heart Association and Laerdal®Program



RQI Partners Service Levels, Practices, and Commitments

# Contact Information for Customer Support

### **RQI Partners Impact Manager**

Impact Managers are assigned to support specific RQI program clients and to provide first level support to the clients.

- Location Field
- Service Hours
  - Monday through Friday, 9:00 am to 5:00 pm local time.
- Contact Information:
  - Impact Manager's contact info was distributed to the clients during the Implementation Phase prior to Go-Live.

### RQI Customer Support Team

The RQI Customer Support team provides support to RQI Site Administrators responsible for managing RQI Programs for their site.

- Location Wappingers Falls, NY
- Service Hours
  - Monday through Friday, 8:00 am to 8:00 pm US Eastern Time
  - Saturday, 10:00 am to 6:00 pm US Eastern Time,
  - Closed Sunday
- Contact Information:
  - +1 (800) 594-9935
  - RQISupport@rgipartners.com

### Customer Communications

The RQI Application Support Manager will send an email to RQI Site Administrators, notifying them of RQI Service-related issues. The RQI Director of Customer Support will be the backup for this task.

Emails to Customer RQI Site Administrators will come from RQISupport@RQIPartners.com.

The email list for RQI Site Administrators will be maintained by the RQI Application Support Manager, based on an export from the RQI1Stop application.

Timely updates of Severity Level 1 items, and at the completion of maintenance requiring downtime, will be sent to the RQI Site Administrators.

Rev 2.0 - 06/29/2020

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# **Monterey County**

**Board Report** 

Legistar File Number: A 21-045

Item No.18

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021

Version: 1

Current Status: Natividad Medical Center -Consent Matter Type: BoS Agreement

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute an agreement with Secure Exchange Solutions, Inc. for secure messaging services at NMC for an amount not to exceed \$58,500 with an agreement term retroactive to December 1, 2020 through November 31, 2023.

b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, limitations on liability, and limitations on damages provisions within the agreement.

## **<u>RECOMMENDATION</u>**:

## It is recommended the Board of Supervisors:

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute an agreement with Secure Exchange Solutions, Inc. for secure messaging services at NMC for an amount not to exceed \$58,500 with an agreement term retroactive to December 1, 2020 through November 31, 2023.

b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, limitations on liability, and limitations on damages provisions within the agreement.

## **SUMMARY/DISCUSSION:**

Healthcare providers require the use of a Health Information Services Provider (HISP) to securely transmit protected patient data via Direct Secure Messaging (DSM). DSM is a Health Insurance Portability and Accountability (HIPAA) compliant transport method promoted by the Department of Health and Human Services.

HISPs offer healthcare organizations an onramp to the Direct Secure Messaging network where trading partners can exchange protected health information (PHI). Secure Exchange Solutions is the industry leader in providing HISP services and has been providing the underlying service, through an intermediary, to NMC for many years. NMC is now requesting an agreement that will connect us directly to Secure Exchange without the need to contract through a reseller.

NMC is requesting a retroactive agreement because our previous vendor exited the business abruptly,

giving NMC no time to negotiate a new agreement with a new vendor before cutting off our service. Because this is a regulatory required service, Secure Exchange Services agreed to provide the service while NMC negotiated in good faith. Secure Exchange has been providing this service to NMC since November, 2020.

## **OTHER AGENCY INVOLVEMENT:**

The Office of County Counsel has reviewed and approved this agreement as to form, and the Auditor-Controller has reviewed and approved as to payment provisions. The agreement has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on February 12, 2021.

### FINANCING:

The cost for this agreement is \$58,500 of which \$19,500 is included in the Fiscal Year 2020-21 Adopted Budget. Amounts for remaining years of the agreement will be included in those budgets as appropriate.

### **BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This agreement allows NMC to satisfy regulatory requirements regarding transmission of protected health information (PHI) between systems and providers.

\_ Economic Development

X Administration

- \_\_\_\_ Health and Human Services
- \_\_\_ Infrastructure
- \_\_\_ Public Safety

Prepared by: Charles Harris M.D., Chief Quality Officer, 783-2785 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2553

Attachments:

Secure Exchange Solutions, Inc. Master Software-as-a-Service Subscription Agreement Secure Exchange Solutions Business Associate Agreement

Attachments on file with the Clerk of the Board



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-045

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor

Item No.

Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021 Version: 1 Current Status: Agenda Ready Matter Type: BoS Agreement

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Economic Development

- $\underline{X}$  Administration
- \_\_\_\_ Health and Human Services
- \_\_\_ Infrastructure
- \_\_\_\_ Public Safety

Prepared by: Charles Harris M.D., Chief Quality Officer, 783-2785 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2553

Attachments:

Secure Exchange Solutions, Inc. Master Software-as-a-Service Subscription Agreement Secure Exchange Solutions Business Associate Agreement

Attachments on file with the Clerk of the Board

Dr. Gary R. Gray Dr. Gary R. Gray, Chief Executive Officer

<u>2/22/2/</u> Date

### MASTER SOFTWARE-AS-A-SERVICE SUBSCRIPTION AGREEMENT

This Master Software-as-a-Service Subscription Agreement (this "Agreement"), is effective as of December 1, 2020 (the "Effective Date") by and between Secure Exchange Solutions, Inc., a Delaware corporation having its principal place of business at 9600 Blackwell Road, Suite 250, Rockville, Maryland 20850 ("SES") and the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center, an acute care hospital with its principal place of business at 1441 Constitution Blvd. Salinas, CA 93906 ("Subscriber").

#### RECITALS

- A. SES has developed certain computer software application products, proprietary databases, and related services and documentation as more fully described on <u>Exhibit A</u> attached hereto, made available for subscription as a service (collectively, the "Services").
- B. Subscriber desires to subscribe for the Services in accordance with the terms and conditions set forth in this Agreement to provide certain functionality to its customers, including, without limitation, the secure electronic exchange of certain data.

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained herein and other good and valuable consideration, including the rights and licenses granted in this Agreement, the receipt of which is acknowledged as legally sufficient and deemed legally binding, SES and Subscriber hereby agree as follows.

- 1. <u>Subscription for Services</u>. Subscriber shall subscribe for the Services in accordance with this Agreement. SES shall provide the Services in a professional and workmanlike manner in accordance with this Agreement. With respect to performance and delivery of the Services, SES is acting as an independent contractor of Subscriber. SES, in its sole discretion, shall determine the manner in which the Services shall be performed and the specific hours to be worked by its personnel in providing and delivering the Services all as contemplated by this Agreement. Neither SES nor the employees or contractors of SES performing any part of the Services shall be considered an employee or agent of Subscriber. Nothing contained in this Agreement or otherwise shall be construed to imply a partnership, agency, or any other fiduciary relationship between Subscriber and SES. Notwithstanding the generality of any other provision of this <u>Section 1</u>, nothing in this Agreement or otherwise shall result in any of the Services or any work product resulting from the Services, including, without limitation, any databases, report templates, or training materials, whether or not including "Data" as defined by this Agreement (collectively, "SES IP") being deemed a "work-made-for-hire" or otherwise being deemed the property of Subscriber.
- 2. <u>Specifications</u>. The parties agree that the specifications for the functionality provided by the Services are fully set forth on <u>Exhibit A</u> attached hereto and hereby made a part hereof (the "Specification Sheet"). Subscriber acknowledges that the Specification Sheet shall be amended by any revised Specification Sheet included with any Upgrade (as defined herein) of the Services provided in accordance with this Agreement without any action required of Subscriber provided that no Upgrade or applicable Specification Sheet shall result in a degradation of reduction of performance or functionality of the Services unless the elimination of functionality is required for compliance with applicable protocols, industry standards, or regulations. The Services shall be deemed to include all of the functionality described in (a) the Specification Sheet; and (b) set forth on (i) the Order Form attached hereto as <u>Exhibit B</u>; and (ii) any and all Upgrades (as defined herein) to any Services.
- 3. Provision of Services and Support Services; Payment. (a) SES shall provide Subscriber with the Services set forth on the Order Form attached hereto as Exhibit B and provide Support Services described in Section 12 of this Agreement (the "Support Services"). (b) Subscriber agrees to pay SES all amounts related to (i) subscription for and provision of the Service as set forth on the Order Form; and (ii) Support Services provided under Section 12 of this Agreement for all such Services (collectively, "Subscription Fees") within thirty (30) days of receipt of an invoice certified for payment by the County of Monterey Auditor-Controller for the applicable Subscription Fees or as otherwise provided under Exhibit B, it being agreed that all invoices submitted by SES shall be deemed certified for payment if not disputed in writing with reasonable specificity as to what amounts, if any, are disputed, within ninety (90) days of the date of any invoice.
- 4. License Grant. SES hereby grants Subscriber in accordance with the terms and conditions of this Agreement, a non-exclusive, non-transferable (except as otherwise permitted under this Agreement) license to access and use the Services, the SES IP, and run-time versions of the computer software applications embodied in the Services enabling the functionality provided by the Services (the "Software") for Subscriber's use in accordance with the intended purpose of the Services, SES IP and such Software (collectively, the "Licensed Intellectual Property") and as set forth on Exhibit B (the "License"). The License with respect to the Software is solely for use concurrent with access to and use of the Services.
- 5. <u>Term</u>. Subject to the terms and conditions of this Agreement, Subscriber shall have all rights under the License for a period of three (3) years commencing on the Effective Date (the "Term").

- 6. <u>Termination</u>. (a) The License shall immediately terminate upon the earlier of (i) the receipt of any refund by Subscriber under Section 12(c) or Section 18 of this Agreement; (ii) at the election of SES, in the event that Subscriber shall fail to pay any applicable Subscription Fees in full within ninety (90) days following the date of the invoice for such Subscription Fees; (iii) in accordance with the BAA (as defined in this Agreement); or (iv) Subscriber may terminate this Agreement in its entirety at any time, without cause or further obligation, on thirty (30) days prior written notice to SES. (b) Upon any termination of the License provided under this Agreement, Subscriber shall have no further right to make use of the Licensed Intellectual Property in any manner whatsoever and shall immediately cease and desist from any use (whether for production or archival purposes) of the any and all of the Licensed Intellectual Property unless otherwise expressly authorized in writing by SES. (c) Upon any termination or expiration of this Agreement, SES shall afford Subscriber, at no additional charge, thirty days to download a complete copy of the Data in a format supported by the Services or as otherwise agreed by the Parties in writing. Upon download of the Data, the license granted herein to the Data shall immediately terminate and SES shall securely remove all copies of the Data from its systems and records using industry best practices (i.e., at least as protective as the DoD 5220-22-M Standard, NIST Special Publication 800-88, Guidelines for Media Sanitization, or NAID standards).
- 7. Copy, Use and Transfer Restrictions; Authorized Users. (a) The Licensed Intellectual Property is copyrighted to SES and is the sole and exclusive property of SES. Subscriber shall not give, sell, or otherwise distribute copies of and Licensed Intellectual Property or permit access to any of the Licensed Intellectual Property to third parties, except as permitted by the License. (b) The Licensed Intellectual Property shall only be used by (i) persons employed by Subscriber, (ii) third parties authorized by Subscriber to have access to the Services solely through use of Subscriber's own products and services ("Subscriber Customers") and shall have no other access to the Services; or (iii) authorized agents or contractors (including consultants) of Subscriber acting in the ordinary course of business (collectively, the "Authorized Users"). (c) Subscriber shall insure that only Authorized Users shall access and use the Licensed Intellectual Property and such use and access shall be only in accordance with the License. (d) Subscriber agrees (i) that it is acting as a "Trusted Agent" of SES for the purpose of registering and verifying the identities of its Authorized Users; and (ii) to comply with the required level of assurance in verifying such identities and registering Authorized Users to use the Services all in accordance with Subscriber's internal HIPAA-compliant process for identity proofing and verification and to maintain documentation evidencing such processes for the Authorized Users. (c) No copies of any Licensed Intellectual Property may be permissibly made by Subscriber or any Authorized User accept as otherwise authorized in writing by SES.
- Data. (a) Subscriber represents and warrants that any and all data input into the Software or otherwise provided by Subscriber 8. or any Authorized User through use of the Services (collectively, the "Data") are the sole and exclusive property of Subscriber or Subscriber has secured any and all authorizations and rights to grant the license to use the Data as provided below, as applicable, under all applicable federal, state and local laws, including, without limitation, the Health Insurance Portability and Accountability Act of 1996, as amended, and the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and all applicable regulations promulgated thereunder concerning the privacy and security of such data (collectively, "HIPAA"). Subscriber grants SES a non-transferable, non-assignable, terminable at-will license to use the Data during the Term (and thereafter with respect to Data subject to the Data Use License with respect to Routing Data as defined in Section 10 of this Agreement)solely as necessary to perform the Services for Subscriber's benefit or otherwise in accordance with the Data Use License. For the avoidance of doubt, SES may not use the Data for the purpose of machine learning, augmented human intelligence development, algorithm improvement, or similar data aggregation activities without the express written consent of Subscriber. Such uses shall not be deemed related to the performance of this Agreement and expressly prohibited. All Data shall be deemed the Confidential Information of Subscriber. Any Data constituting PHI shall be subject to the BAA, as defined below. (b) Subscriber is responsible for adopting reasonable measures to limit the impact of such problems, and to advise and require Authorized Users to do the same, including backing up Data and adopting procedures to ensure the accuracy of input Data; examining and confirming results prior to use; and adopting procedures to identify and correct errors and omissions, replace lost or damaged media, and reconstruct Data. (c) SES is and at all times shall be and remain a Business Associate of Subscriber and every Authorized User and agrees to comply with the terms and conditions of the Business Associate Agreement set forth in Exhibit C to this Agreement (the "BAA"). In the event of a conflict between the BAA and the body of this Agreement, the more protective provision shall govern. (f) The functionality provided by the Services permits the Subscriber and its Authorized Users to perform certain processes to Data among and between various data formats and standards (the "Data Services"), however, under no circumstances under this Agreement is SES performing any Data Services for or on behalf of Subscriber or any Authorized User, nor shall SES be a clearinghouse, service bureau or other such similar entity or organization otherwise defined under HIPAA as a Covered Entity. (g) SES shall not be liable for any errors in or loss of the Data as input into the Services by Subscriber; but SES will be responsible for errors or losses caused the Services failing to operate in accordance with the applicable Specification Sheet.
- 9. Use of Protected Health Information; Confidentiality. (a) SES may use Data which is PHI, as defined in the BAA, or which is any form of de-identified PHI ("Restricted Data") as provided in <u>Section 8</u> and this <u>Section 9</u> only strictly in accordance with the privacy rules under HIPAA and for the purposes of the providing the Services to Subscriber and no Restricted Data shall be disclosed to any person or party other than Subscriber, patient or other individual otherwise permitted access to such Restricted Data under HIPAA, including, among others, any Authorized User providing such Restricted Data.

(b) During the course of this Agreement, each party may disclose to the other certain non-public information or materials relating to a party's products, intellectual property, business, marketing programs and efforts, and other confidential information and trade secrets ("Confidential Information"). Notwithstanding the foregoing, Confidential Information does not include information that: (a) is or becomes publicly available through no breach by the receiving party of this Agreement; (b) was previously known to the receiving party prior to the date of disclosure, as evidenced by contemporaneous written records; (c) was acquired from a third party without any breach of any obligation of confidentiality; (d) was independently developed by a party hereto without reference to Confidential Information of the other party; or (e) is required to be disclosed pursuant to a subpoena or other similar order of any court or government agency, provided, however, that party receiving such subpoena or order shall promptly inform the other party in writing and provide a copy thereof, and shall only disclose that Confidential Information necessary to comply with such subpoena or order. Except as expressly provided herein, the receiving party will not use or disclose any Confidential Information of the disclosing party without the disclosing party's prior written consent, except disclosure to and subsequent uses by the receiving party's employees or consultants on a need-to-know basis, provided that such employees or consultants have executed written agreements restricting use or disclosure of such Confidential Information that are at least as restrictive as the receiving party's obligations under this Section. Subject to the foregoing nondisclosure and non-use obligations, the receiving party agrees to use at least the same care and precaution in protecting such Confidential Information as the receiving party uses to protect the receiving party's own Confidential Information and trade secrets, and in no event less than reasonable care. Each party acknowledges that due to the unique nature of the other party's Confidential Information, the disclosing party will not have an adequate remedy in money or damages in the event of any unauthorized use or disclosure of its Confidential Information. In addition to any other remedies that may be available in law, in equity or otherwise, the disclosing party shall be entitled to seek injunctive relief to prevent such unauthorized use or disclosure. Neither party shall remove or alter any proprietary markings (e.g., copyright and trademark notices) on the other party's Confidential Information. Restriction on non-disclosure of Confidential Information provided by this Section shall not apply to permissible disclosures of Confidential Information necessary for performance of a party's performance obligations under this Agreement.

- 10. Use of Routing Data; Use of Other Data. (a) Included in the license to use Data provided in Section 8(a) of this Agreement above, is the right for SES to use Data which are any of the (i) electronic mail address generated by the Services for Subscriber or any Authorized User to use the Services (a "Direct Address"); (ii) administrative electronic mail address provided by any Authorized User upon registering for use of the Services (the "Administrative Address"); (iii) the postal zip code and state jurisdiction of Subscriber and any Authorized User receiving or using the Services (the "Zip and State"); (iv) the administrative telephone number for Subscriber and any Authorized User receiving or using the Services (the "Phone Number"); (v) the National Provider Identification Number issued by the United States Department of Health and Human Services (or any successor agency of the United States federal government) of any Authorized User, or Subscriber, as applicable. (the "NPI,"); of (vi) any alphanumeric identifier provided by Subscriber for any Authorized User (the "Identifier", together with the Direct Address, the Administrative Address, the Zip and State, the Phone Number, and NPI collectively, the "Routing Data") for reporting, monitoring and other uses of SES in connection with the provision of the Services (the "Data Use License"). (b) Subscriber agrees that the rights of SES to use Routing Data under the Data Use License shall survive any termination or expiration of this Agreement solely to permit SES to continue to use such Routing Data to permit third parties to transmit and receive electronic messages to and from Authorized Users generally in accordance with the Applicability Statement for Secure Health Transport as identified at 45 C.F.R. 170.202 or any applicable successor or coincident protocol (the "Direct Protocol") and subject to and in accordance with all applicable regulations. (c) Any and all Data input into, or otherwise provided by Subscriber or any Authorized User through use of, the Services which is none of any of PHI, Restricted Data, or Routing Data shall be used by SES only to provide the Services or the Support Services as defined by this Agreement.
- 11. <u>Disclaimer of Warranty and Limited Warranty</u>. (a) The Licensed Intellectual Property is licensed in accordance with the limited warranty described in this <u>Section 11</u> as to their performance or to the results that may be obtained by using the Licensed Intellectual Property. Subscriber, and each Authorized User, as applicable, not SES, is responsible for ensuring the correctness of any Data entered during use of the Licensed Intellectual Property except if any of the Licensed Intellectual Property cause the Services or Software, as applicable, to materially fail to perform according to the applicable Specification Sheet.
  - (b) SES warrants that (i) in providing the Services and handling and processing the Data pursuant to this Agreement SES shall comply with the applicable provisions of HIPAA and all applicable local, state, federal, and international privacy and data security laws and regulations; (ii) the Licensed Intellectual Property will permit the Services to materially operate according to the applicable Specification Sheet at all times commencing on the date Subscriber or any Authorized User first accesses the Services through the termination or expiration of the Term provided Subscriber has paid in full all Subscription Fees and when the Licensed Intellectual Property is used for the proposes identified on the applicable Specification Sheet.; (iii) SES shall comply with such other representations and warrantys otherwise expressly set forth in this Agreement; and (iv) it shall not transmit or make available any unencrypted Data to any entity or individual outside the United States without Subscriber's prior written authorization (collectively, the "Limited Warranty"). Except as expressly provided under the Limited Warranty, SES does not warrant, and Subscriber acknowledges, that any of the Licensed Intellectual Property, including, without limitation, any of the

Services, will be error-free, or will operate without interruption, or that the Licensed Intellectual Property will perform in the manner intended by Subscriber or the Services will meet the requirements of Subscriber or any Authorized User.

- (c) The Limited Warranty defined in this <u>Section 11</u> shall not apply if any Licensed Intellectual Property is modified by (i) a party other than SES without SES's written consent which may be withheld for any reason at SES's sole discretion; or (ii) improperly used, including, without limitation, used in a manner not consistent with the Specification Sheet or other than for the intended purpose of the Services. However, SES does warrant that in the event that if any of the Licensed Intellectual Property fails to conform to the Limited Warranty, Subscriber shall be entitled to the remedies set forth in <u>Section 12</u> of this Agreement or such other applicable remedies otherwise provided in this Agreement.
- (d) EXCEPT FOR THE LIMITED WARRANTY DEFINED IN THIS <u>SECTION 10</u>, SES MAKES NO OTHER WARRANTY, OF ANY KIND EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT BY ANYONE SHALL BE DEEMED TO BE OR CREATE A WARRANTY FROM SES OR BY ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PROVISION, OR DELIVERY OF THE SERVICES OR ANY OTHER LICENSED INTELLECTUAL PROPERTY.
- (e) Subscriber acknowledges that no use of any Licensed Intellectual Property shall make them consumer goods for purposes of federal or state warranty laws, and agrees that they are not consumer goods for such purposes.
- 12. Software and Media Remedy. (a) If the Licensed Intellectual Property causes the Services to materially fail to operate according to the applicable Specification Sheet, SES agrees at no cost to Subscriber to: (i) promptly repair or replace any defective Licensed Intellectual Property; (ii) provide a comparable alternative means with the same or similar functionality for the Subscriber; and (iii) correct any errors in future Upgrades. As used in this Agreement, "Upgrades" means any improvements to the Services, whether or not enabled by improvements to any SES IP or any Software (such as bug fixes and/or new features, new functionality, increased efficiency or other modifications) released by SES as an "Upgrade;" it does not include other computer software applications released by SES under other product names, or other services or solutions offerings made available generally by SES from time-to-time or at any time which may have features or functionality similar to that of the Services.
  - (b) Upon receipt by SES of written notice by Subscriber, that SES has failed to conform to any of the limited warranties specified in <u>Section 11</u> of this Agreement (the "Warranty Notice"), SES shall be entitled to thirty (30) days from date of such Warranty Notice to cure said failure. If SES does not cure said failure within 30 days after the date of such Warranty Notice, SES shall promptly continue to modify, replace or repair the Licensed Intellectual Property to cause the Services to conform to the warranty provided under this Agreement. Subscriber shall have the right to request in writing a refund of the Subscription Fees paid to SES at any time after 30 days from date of the Warranty Notice if SES has not cured said failure (the "Refund Request").
  - (c) SES shall refund within sixty (60) days after receipt of any Refund Request from Subscriber the amount of Subscription Fees paid for the nonconforming Services following the date upon which the Services became nonconforming, such date being no earlier than the date of the Warranty Notice applicable to such non-conformity. In the event Subscriber pre-paid the Subscription Fees for the period during which the non-conformity occurs, such refund shall equal the unamortized portion of such Subscription Fee stated on a 12-month straight-line amortization schedule commencing on the dates of the applicable annual period and ending on the date of the Warranty Notice. The License shall be terminated immediately upon Subscriber's receipt of any refund under this <u>Section 12</u>.
- 13. <u>Support Services</u>. Provided Subscriber is at all times in compliance with the License and timely pays all Subscription Fees, Support Services, as described in paragraphs (a) and (b) of this <u>Section 13</u>, will be provided in accordance with the Service Level Agreement described in <u>Exhibit D</u> attached hereto (the "Service Level Agreement").
  - (a) <u>Upgrade Service</u>. Upgrades to the Services including Upgrades, will be provided for as part of the Support Services, provided Subscriber pays all applicable Subscription Fees. SES shall provide Upgrades as they become generally available for release in the manner set forth in this Agreement or the Service Level Agreement, provided Subscriber has timely paid all applicable Subscription Fees.
  - (b) <u>Additional Support Services</u>. Support Services, (as set forth in <u>Exhibit D</u> of this Agreement) including telephone support for Authorized Users which are not Subscriber Customers, will be provided to Subscriber provided Subscriber timely pays all applicable Subscription Fees.

- (c) <u>Disaster Recovery</u>. SES shall maintain an appropriate Disaster Recovery Plan in accordance with applicable provisions of the Service Level Agreement.
- 14. Work Orders. Subscriber may request additional services from SES with respect to the integration, configuration and operation of the Services and any other Licensed Intellectual Property by the execution of one or more work orders in the form attached hereto as <u>Exhibit E</u> ("Work Orders"). Under no circumstances shall any Work Order be deemed to create a work-made-for-hire on behalf of Subscriber and all work product, results, deliverables or other intellectual property arising from any Work Orders is and shall remain the sole and exclusive property of SES and shall when made available to Subscriber be deemed to have been included among and within the Licensed Intellectual Property as of the Effective Date of this Agreement. Subscriber shall pay all amounts due under each Work Order otherwise in accordance with the terms of each applicable Work Order and this Agreement.
- 15. Ownership of the Licensed Intellectual Property. The Subscriber acknowledges that the Services and all other Licensed Intellectual Property are the property of SES, and that the entire right, title, and interest (including any interest arising out of copyright laws) in the Services and all other Licensed Intellectual Property and all materials relating to the Licensed Intellectual property belong to SES, subject to the License. Unless otherwise expressly agreed, all changes, modifications or improvements made or developed with regard to any of the Licensed Intellectual Property by SES, whether or not made or developed at Subscriber's request, whether pursuant to a Work Order or otherwise, shall remain the property of SES and, upon delivery, disclosure, provision or availability to Subscriber, shall be deemed to have been part of the Services and all other Licensed Intellectual Property may include applications, products, materials, systems, data, techniques, processes, information, methodologies and the other information and services that are proprietary to third-party suppliers and vendors of SES (the "Third Party IP"); (ii) SES holds valid licenses for all Third Party IP sufficient to permit SES to provide the Services pursuant to the License; and (iii) Subscriber shall neither have nor obtain any rights in any Third Party IP under this Agreement except coincident to the License.
- 16. <u>Transfer of License</u>. The Subscriber does not have the right to sell, assign or otherwise transfer copies of any Licensed Intellectual Property or the License, or permit any third party access to the Services (other than to Subscriber Customers as part of use of the Services in accordance with this Agreement and the License) except in connection with the merger, corporate reorganization or the sale of all or substantially all of its assets or to a parent or wholly owned subsidiary or successor to the business of the Subscriber. Any permitted successor shall notify SES of its succession to the Subscriber's rights and shall agree in writing to be bound by this Agreement.
- 17. Damages: Injunctive Relief. The Subscriber agrees that, if any unauthorized copies of the Software are made, or if the Software are used in violation of this Agreement, SES shall have the right to seek an injunction by application or petition to any court of competent jurisdiction against that unauthorized copying or use, in addition to any other rights to which SES may be entitled and notwithstanding the general applicability of Section 17 of this Agreement. Similarly, SES agrees that, if any unauthorized copies of the Data are made, or if the Data is used in violation of this Agreement, Subscriber shall have the right to seek an injunction by application or petition to any court of competent jurisdiction against that unauthorized copying or use, in addition to any other rights to which Subscriber may be entitled and notwithstanding the general applicability of Section 17 of this Agreement.
- 18. Limitation of Liability; Indemnification. (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EACH PARTY'S ENTIRE AGGREGATE LIABILITY TO THE OTHER PARTY, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION OR THEORY OF LIABILITY (INCLUDING CONTRACT, TORT, OR WARRANTY), SHALL BE LIMITED TO ACTUAL DAMAGES INCURRED BY THE PARTY NOT TO EXCEED THE AMOUNT OF SUBSCRIPTION FEES PAID. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY HAVE ANY LIABILITY TO SUBSCRIBER FOR ANY CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OR COSTS, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOSS OF GOODWILL, RESULTING FROM ANY VIOLATION OF THIS AGREEMENT EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY THEREOF. THE FOREGOING LIMITATIONS AND EXCLUSIONS OF LIABILITY SHALL NOT APPLY TO NOR LIMIT SES' INDEMNITY OBLIGATIONS IN THIS SECTION OR EITHER PARTY'S LIABILITY FOR INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHT (FOR THE AVOIDANCE OF DOUBT, USE OF DATA OR INTELLECTUAL PROPERTY IN BREACH OF AN EXPRESS LICENSE SHALL BE DEEMED INFRINGEMENT), BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER, BREACH OF THE BAA, OR GROSS NEGLIGENCE, WILLFUL MISCONDUCT, AND VIOLATION OF APPLICABLE LAW.

(b) At SES's expense as provided herein, SES agrees to defend, indemnify, and hold harmless Subscriber and its directors, officers, agents, employees, members, subsidiaries and successors in interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees, experts' fees and court costs, arising out

of any claim by a third party (i) related to SES' use of the Data in violation of the express license granted herein or in breach of the BAA (a "Data Claim"); and (ii) alleging that the Licensed Intellectual Property provided pursuant to this Agreement infringes any patent, copyright, trademark, trade secret or other intellectual property right of any third party (an "IP Claim, together with any Data Claim, collectively, "Claims"); provided, however, that (A) Subscriber promptly notify SES in writing by personal delivery, courier, or registered mail agent of any such Claim; (B) Subscriber permits SES, at its expense, to direct and control all defense, settlement or compromise negotiations; (C) Subscriber provides SES with full information and assistance as may be reasonably required to defend any such Claim; and (D) that to the extent that SES has control over the defense and settlement of any such Claim, SES shall not enter into any settlement or other arrangement that admits liability of the Subscriber without Subscriber's prior written consent.

(c) SES shall have no obligation or liability with respect to any IP Claim based upon any Licensed Intellectual Property which has been altered by any party other than SES without the written consent of SES, or the combination, operation or use of the Licensed Intellectual Property with products not furnished by SES when such combination is a part of any allegedly infringing process.

(d) If any of the Licensed Intellectual Property becomes, or in SES's opinion is likely to become, the subject of an IP Claim, SES may either (i) procure for Subscriber the right to continue using the affected Licensed Intellectual Property; or (ii) replace or modify such Licensed Intellectual Property so as to make it non-infringing.

(e) If neither of the alternatives set forth in <u>Section 18(c)</u> or <u>Section 18(d)</u> is reasonably available to SES, then SES may terminate the License provided in <u>Section 4</u> of this Agreement upon written notice to Subscriber and refund the unamortized portion of the Subscription Fees paid for the nonconforming Licensed Intellectual Property based on a straight line twelve (12) month amortization for the year in which Subscriber discontinues the use of the nonconforming Licensed Intellectual Property.

(f) The License for the applicable non-conforming Licensed Intellectual Property shall be terminated immediately upon Subscriber's receipt of any refund under this <u>Section 18</u> and this <u>Section 18</u> states the entire liability of SES with respect to indemnification for patent, trademark, copyright, trade secret, or other intellectual property right infringement covered by any IP Claims.

- 19. No Use of Names; Publicity; Trademarks and Logos. (a) Neither party will use the names or trademarks of the other party in any marketing or promotional materials or make any public announcement or engage in communication with the general public or in public forums (including but not limited to Twitter, Facebook, Linked-In, Blogging, or other social media) concerning the existence or substance of the Agreement or about the other party's business practices, services, or support activities before obtaining the written consent of the other party. This restriction will not apply, however, to any announcement or written statement required to be made by law or the regulations of any national, provincial or state governmental agency. (b) Subscriber hereby grants SES a fully-paid, non-exclusive right to use the name, logo, trademarks, trade dress and other collateral graphic materials and images on any web site or world wide web page providing access to the Services by any Authorized User and in identity certificates required for operation of the Services in accordance with the Direct Protocol at all times during the Term.
- 20. Miscellaneous. This Agreement represents the entire agreement between the parties as to its subject matter and shall be governed by and construed in accordance with the laws of the State of Maryland without regard to the conflicts of laws provisions thereof. The parties hereto agree that all applicable actions or proceedings arising from or relating to this Agreement shall be tried and litigated exclusively in the Circuit Court for Montgomery County, Maryland. Neither the Uniform Computer Information Transactions Act ("UCITA") (if and to the extent enacted in Maryland or any other state), nor the United Nations Convention on Contracts for the International Sale of Goods shall apply to this Agreement. To the extent UCITA is applicable notwithstanding the foregoing, SES and Subscriber agree to opt out of the applicability of UCITA pursuant to the "opt out" provisions contained therein. This Agreement may be modified only in a writing signed by both parties. In the event of any conflict between the terms and conditions of this Agreement or Work Order, the terms and conditions of this Agreement shall control. In particular, no shrink-wrap, click-wrap, or other terms and conditions, privacy policies, or agreements ("Additional Terms") provided with any products, services, documentation or software, including any maintenance and support updates thereto, hereunder shall be binding on Subscriber, even if use of such items requires an affirmative "acceptance" of those Additional Terms before access is permitted. All such Additional Terms shall be of no force or effect and shall be deemed rejected by Subscriber in their entirety. If any provision of this Agreement is alleged to be invalid or unenforceable, that provision shall be construed to have the broadest interpretation that would make it valid and enforceable. Invalidity or unenforceability of one provision shall not affect any other provision of this Agreement. Failure or delay by either party in exercising any right or power under this Agreement shall not operate as a waiver of that right or power. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

### 21. Insurance.

### (a) Evidence of Coverage:

Prior to commencement of this Agreement, SES 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, SES upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to SUBSCRIBER's Contracts/Purchasing Department, unless otherwise directed. SES shall <u>not</u> receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and SUBSCRIBER has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of SES.

(b) 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 SUBSCRIBER's Contracts/Purchasing Director.

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

(d) 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 SESs, 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.)

Exemption/Modification (Justification attached; subject to approval)

(e) 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.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereio, 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.)

Exemption/Modification (Justification attached; subject to approval)

(f) Workers' Compensation Insurance, If SES employs other in the performance of this Agreement, in accordance with the applicable statutory minimums for the jurisdiction where such persons are employed with Employer's Liability limits not less than \$500,000 each person, \$500,000 each accident and \$500,000 each disease.

(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.)

Exemption/Modification (Justification attached; subject to approval)

(g) 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, SES 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 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.)

**Exemption/Modification (Justification attached; subject to approval)** 

#### (h) Other Insurance Requirements.

- a. All insurance required by this Agreement shall be with a company acceptable to Subscriber 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 SES completes its performance of services under this Agreement.
- b. Each liability policy shall provide that Subscriber 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, provided, however, that the failure to provide such notice shall not be a default under or breach of this Agreement so long as the required insurance is maintained as provided in this <u>Section 21</u> with no break in coverage. Each policy shall provide coverage for SES and additional insured 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, if any, showing identical insurance coverage to the above requirements.
- c. 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 SES's work, including ongoing and completed operations, if applicable, 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 SES's insurance.
- d. Prior to the execution of this Agreement by Subscriber, SES shall file certificates of insurance with Subscriber's Contracts/Purchasing Department, showing that SES has in effect the insurance required by this Agreement. SES 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, provided, however, that the failure to timely file shall not be a default under or breach of this Agreement so long as the required insurance is maintained as provided in this <u>Section 21</u> with no break in coverage. 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.
- e. SES 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 Subscriber, annual certificates to Subscriber's Contracts/Purchasing Department. If the certificate is not received by the expiration date, Subscriber shall notify SES and SES shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by SES to maintain such insurance is a default of this Agreement, which entitles Subscriber, at its sole discretion, to terminate the Agreement immediately.

### REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Secure Exchange Solutions, Inc. and Subscriber have caused this Master Software-as-a-Service Subscription Agreement to be executed by their duly authorized representative as of the Effective Date.

Secure Exchange Solutions, Inc.

The County of Monterey on behalf of Natividad Medical Center

Dan kazzaz

Dan Kazzaz

11/23/2020

CE0

By:

Title:

Dated:

 Ву:
 Title:
 Dated:

Reviewed and approved as to form.

Jacy L Salle

Deputy County Counsel February 4, 2021

Approved For Fiscal Provisions

Jary Jiboney

Chief-Deputy Auditor-Controller 2-4-2021

### <u>Exhibit A</u>

### **Specification Sheet**

SES will provide products and services as further described in this Exhibit A.

- 1. SES Direct: The following sets forth the features and functions of SES Direct platform service, a software-as-a-service Direct Secure Messaging solution to provided secure, point-to-point messaging in accordance with the specifications set forth in the Direct Protocol.
  - 1. Direct Messaging Support/Security
    - a. Available integration tools (SES Connect) that allow for automated transport of messages and attachments according to the Direct Protocol
    - b. Cryptographic services platform to support advanced encryption/decryption and digital signature methods as well as S/MIME packaging and envelope handling
    - c. Full end-to-end encryption, including all server data, transaction/transport of data, and administrative access
    - d. HISP to HISP message routing (inbound and outbound), including negotiation of trust
    - e. Support for TLS with access permitted with a valid certificate (TLS v.1.2 or higher)
    - f. SES HISP Platform (SES Direct) accredited by DirectTrust in accordance with Direct Trusted Agent Accreditation Program (DTAAP)
    - g.
    - h. SES HISP Platform (SES Direct) certified as ONC-HIT 2015 ed. 170.315(d)(1)-(3), g(4),-(5), and (h)(2) Compliant to support Meaningful Use Stages 1-3 compliance.
  - 2. SES Direct Online Web Application
    - a. Browser based administrative and webmail portal that provides access to secure messages and reports
    - b. Supports all standard web browsers current version (Google Chrome v.69 or higher, Microsoft Edge v.40 or higher, Internet Explorer v.11 or higher, Mozilla Firefoxv.60 or higher, or Apple Safari v.12 or higher)
    - c. Contact list synchronization and download
  - 3. Domain Management
    - a. Concierge domain hosting for Subscriber-named domain (if applicable).
    - b. Directory Service for look-up of recipient Direct addresses in accordance with applicable DirectTrust rules
  - 4. Certificate Authority
    - a. Certificate management service Issue (create), renew and revoke PKI (X.509) certificates used for encryption of messages and digital signing
      - i. Certificate provisioning for signing and encryption
      - ii. Certificate management (including issuance, discovery, renewal, and validation)
      - iii. DNS service for certificate publication and discovery
    - b. Trust anchors repository
      - i. Maintain storage and delivery of certificates used in the exchange, manage trust anchors
      - ii. Scalable and expandable security and trust framework
    - c. SES Certificate Authority accredited by EHNAC/DirectTrust in accordance with Direct Trusted Agent Accreditation Program (DTAAP)
  - 5. Registration Service
    - a. Registration and enrollment of Authorized Users
      - i. Pre-load and Assisted Registration for large batch upload
      - ii. Web registration via web portal
      - ili. Automated through SES Connect Registration API (if applicable).
    - b. Subscriber to have primary responsibility for establishing Authorized User identity to required level of assurance and to maintain documentation evidencing such processes for all Authorized Users.
    - c. Registration services provided via SES Registration Authority accredited by EHNAC/DirectTrust in accordance with Direct Trusted Agent Accreditation Program (DTAAP) with Subscriber as Trusted Agent for identity verification of Authorized Users.

- 6. Audit/Reporting
  - a. Browser-based administrative portal and reporting mechanism (SES Direct Online)
  - b. Audit logging mechanism for the messaging and account lifecycles that includes message date time stamp, message ID, sender / receiver, message status, size of message, account creation date time stamp
- 7. Security
  - a. All data is encrypted at rest and in motion
  - b. Data encryption is implemented using the Advanced Encryption Standard (AES) algorithm specified by Federal Information Processing Standard 197 encrypted with AES128 cipher and 2048 bit key
  - c. User access over TLS v.1,2
  - d. Password strength is enforced by policy in accordance with NIST Pub. No. 800-63-3 guidelines
  - e. Separate databases for encrypted messages and private keys with different access privileges
  - f. Administrative access controlled with two-factor authentication
- 8. SES Connect (Version 2.1 or latest release): Web Service API toolkit including the follow methods for integration
  - a. Method Name: GetMessageNumber
  - b. Method Name: GetReadMessageNumber
  - c. Method Name: GetMessageList
  - d. Method Name: GetMessageHeader
  - e. Method Name: GetMessageHeaderList
  - f. Method Name: GetMessage
  - g. Method Name: DeleteMessage
  - h. Method Name: SendMessage
  - i. Method Name: UpdateMessageStatus
  - j. Method Name: SentMessageStatus
  - k. Method Name: SendMDN
  - 1. Method Name: Register
  - m. Method Name: SearchRegistration
  - n. Method Name: UpdateRegisteredAccount
  - o. Method Name: DeleteRegisteredAccount
  - p. Method Name: PublicDirectorySearch
  - q. Method Name: ExternalDirectorySearch
- 2. SES XDR: Support for Direct Messaging Specification Version 1.0 for push exchange with the Subscriber
- 3. SES Online Webmail: Browser based administrative and webmail portal that provides access to secure messages and reports. Supports all standard web browsers (Google Chrome v.69 or higher, Microsoft Edge v.40 or higher, Internet Explorer v.11 or higher, Mozilla Firefox v.60 or higher, or Apple Safari v.12 or higher). Includes contact list synchronization and download.

### <u>Exhibit B</u>

### Order Form

### (attached)

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### Exhibit B

Subscriber Name: Subscriber Addres

lame:	Natividad Medical Center	
ddress:	ATTN: Tim Fitzgerald, PMP	
	Information Technology	
	1441 Constitution Blvd.	
	Salinas, CA 93906	
phone:	831.783.2716	
email:	fitzgeraldTR@natividad.com	
22		

Billing Address:	Natividad Medical Center
	ATTN: Accounts Payable
	1441 Constitution Blvd.
	Salinas, CA 93906
phone:	831.783.2716
email:	fitzgeraldTR@natividad.com

Unless this Order Form and the HISP Agreement are executed by such date, this pricing will expire: 11/30/2020

CODE	ITEMS	No. of Units	Price per Unit	Discount Applied	Total
	PRODUCTS AND SUBSCRIPTION SERVICES				
1500-100	SES Direct (Annual Subscription) - Hospital Bundle	1	\$30,000	\$ 10,500	\$ 19,500
	Direct HISP/CA Subscription:	10			included
	DirectTrust Accredited HISP, CA and RA platform for Direct Professional and Organization Accounts. SES Online webmail application to support registrations, internal testing, administrative portal and MU reporting. ONC Certified Direct Tranport / Modular EHR Program. Includes 10 Direct Accounts (Organization or Professional), address, certificate, 100 GB message store, and DirectTrust directory listing.	,			
1200-100	Concierge Domain (CA Direct domain)	1			included
	Maintenance of Concierge Domain (Production) Access to shared test domain (1 Shared Test)				
1200-100	SES Online Web Application	1			included
	Webmail application with administrative management functions and reporting				
1200-400	C-CDA and XDM Viewer	1			included
	View structured data easily for providers and long-term care facilities that access Direct messaging through the SES Online web application.				
1500-100	Directory Services	1			included
	Access to search national directory including Direct accounts provisioned by SES and third party HISPs where SES has a Directory Exchange relationship. Directory Information shared via Directory Exchange program and accessible through SES Connect web services API or SES Online web portal interface.				
1500-500	XDR Bi-directional interface to Meditech	2			included
	Ongoing maintenance and support for bi-directional Meditech XDR interface. Testing and integration support up to 8 hours annually.				
	TOTAL ORDER				\$ 19,500

Note 1: This Order Form is subject to the terms and conditions of the Master Software-as-a-Service Subscription Agreement by and between SES and Subscriber dated as of the Effective Date, including any and all attachments, exhibits, or addendums thereto (the "MSSA") and to which this Order Form is attached as an Exhibit B, together with the applicable Service Level Agreement and/or Work Order (if any) effective between the parties. Any capitalized term on this Order Form not otherwise defined herein shall have the meaning set forth in the MSSA.

Note 2: Subscription period shall be the Term as defined in the MSSA commencing December 1, 2020 through December 1, 2023. The Total Order amount set forth on this Order Form for the first annual subscription during the Term from December 1, 2020 through December 1, 2021 shall be invoiced as of the Effective Date. Payment terms: \$19,500 Net 30 from receipt of invoice. The total value of the 3 (three) year subscription Term is \$58,500. SES will invoice the remainder of the Subscription as follows: \$19,500 as of December 1, 2021, and \$19,500 as of December 1, 2022.

Note 3: Concierge domain includes up to 350 GB storage in total for combined test and production environment.

Note 4: Subscriber shall be responsible for any applicable sales and use tax. Subscriber shall provide a tax exemption certificate to SES annually during the Term and upon request, if applicable.

Secure Exchange Solutions, 9600 Blackwell Road, Suite 250, Rockville, MD 20850, 888-470-9913 toll-free Federal Tax ID 27-3649378

### <u>Exhibit C</u>

### **Business Associate Agreement**

(attached)

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### <u>Exhibit D</u>

### Service Level Agreement

- PURPOSE. These purpose of this Service Level Agreement ("SLA") is to outline the policies and procedures established by Secure Exchange Solutions ("SES") to deliver Support Services, Upgrades and other services pursuant to the HISP Subscription Agreement to which this SLA is attached (the "Agreement"). Subscriber must comply with this SLA in requesting support from SES and in requesting SES to provide Support Services provided pursuant to the License.
- 2. CERTAIN DEFINITIONS. All capitalized terms in this SLA not otherwise defined herein shall have the meaning prescribed to them in the Agreement. In addition to the terms defined in the Agreement, the following named terms shall have the following meaning in this SLA:
  - a. "Error(s)" shall mean a failure of the Licensed Intellectual Property to operate in the manner described by SES.
  - b. "Maintenance" means activities of SES to provide normal software operation through updates, bug patches, fixes and work-arounds. "Maintenance" does not include enhancements or additions to the Licensed Intellectual Property that provide new functionality.
  - c. "Problems" means Errors, defects, malfunction or any nonconformity to any applicable Specification Sheet for the Services
  - d. "Service Outage" means any interruption in the availability of the Licensed Intellectual Property to Subscriber (excluding Scheduled Maintenance or Emergency Maintenance) and only if such interruption is due to an Error, and specifically excludes any Non-Standard Services.
  - e. "Support Hours" means the daytime hours during which SES provides Support Services for the Licensed Intellectual Property. SES's Support Center Hours of Operation shall be Monday through Friday, excluding federal holidays, from 8:00 AM to 8:00 PM, Eastern Standard Time. SES's Help Desk Hours of Operation shall be Monday through Friday, excluding federal holidays, from 8:00 AM to 8:00 PM, Eastern Standard Time.
  - f. "Support Services" shall have the meaning set forth in the Agreement and in this SLA.
- 3. SUPPORT SERVICES PROVIDED,
  - a. During the term of this SLA, SES agrees to provide Support Services under the terms set forth in this SLA, which may include Maintenance, and Non-Standard Services, as defined herein.
  - b. All Support Services performed by SES under this SLA shall be performed in a professional and workman like manner in accordance with general industry standards.
  - c. SES does not warrant that the Support Services or Licensed Intellectual Property will be uninterrupted or error free.
  - d. All Support Services shall be provided only to Authorized Subscriber Contact(s).
- 4. SUPPORT SERVICE REQUESTS.
  - a. <u>Problem Reporting and Logging</u>. SES will provide Subscriber with an e-mail address for Authorized Subscriber Contact(s) (as defined herein) to use when requesting Support Services, including Maintenance. If a problem is reported outside of the Support Hours, the time window for expected problem resolution of a Problem will begin when the SES support center re-opens for business during the Support Hours.
  - b. <u>Severity Level and Response to Support Service Requests</u>. SES shall specify the severity level (each, a "Severity Level") of each Support Service request, including Maintenance, per the following procedures:
    - i. Severity 1 (Highest):
      - A. CHARACTERISTIC: Produces an emergency in which the Licensed Intellectual Property are rendered unusable or fail catastrophically, and there is no known workaround (implies the need to resolve the emergency immediately for Subscriber to resume standard business operations).
      - B. RESPONSE: SES will provide acknowledgement, if requested, by email to the Authorized Subscriber Contact(s) by a qualified member of the SES staff within two (2) working hours of logging the Problem. SES will use reasonable commercial efforts to provide a patch, bypass or workaround within two (2) business days from the time the Problem was logged by SES. The delivery of the work-around or emergency software fix will drop the severity classification to a Severity Level of 3.
    - ii. Severity 2 (Normal):
      - A. CHARACTERISTIC: Produces a failure of at most a single function or causes intermittent errors, or impairs the usability of a system component. A Severity Level of 2 implies the need to resolve the Problem in the normal course of development activities.

- B. RESPONSE: SES will provide acknowledgement, if requested, by e-mail to the Authorized Subscriber Contact(s) by a qualified member of the SES staff within eight (8) working hours of logging the Problem. SES will use reasonable commercial efforts to provide a patch, bypass or workaround within five (5) business days from the time the Problem was logged by SES. The delivery of this work-around or emergency software fix will drop the severity classification to a Severity Level of 3.
- iii. Severity 3 (Low):
  - A. CHARACTERISTIC: Produces a situation in which the Licensed Intellectual Property are usable, but there is an effect on the functionality of the Licensed Intellectual Property.
  - B. RESPONSE: SES will provide acknowledgement, if requested, by e-mail to the Authorized Subscriber Contact(s) by a qualified member of its staff within eight (8) working hours of logging the Problem. SES will exercise reasonable commercial efforts to address Problems with a classification of a Severity Level of 3 in a future release of the applicable Software.
- 5. UPGRADES. SES shall provide Upgrades to the Licensed Intellectual Property on an "as available" basis as set forth in the Agreement. Upgrades may include defect fixes and standard enhancements to existing features of the Licensed Intellectual Property produced at SES's discretion through SES's standard development and/or via Work Order.
- 6. SUPPORT SERVICES. SES will provide Support Services as requested by Subscriber and as described in this SLA, the Agreement, or any applicable Work Order, including, among others, Maintenance, Help Desk during Support Hours, Upgrades, Problem resolution and Non-Standard Services.
- 7. NON-STANDARD SERVICES. Subscriber may request SES to perform additional tasks such as specific software development, non-Program specific consulting and other services (collectively, the "Non-Standard Services"). If SES agrees to perform any Non-Standard Services, such Non-Standard Services will be documented in a Work Order.
- 8. SCHEDULED MAINTENANCE. SES reserves one (1) regularly scheduled maintenance window per month, of up to four (4) hours duration outside of the Support Hours in order to maintain the Software and provide and install as available, any Upgrades (the "Scheduled Maintenance"). Subscriber and SES will agree to available adequate windows for Scheduled Maintenance for the integration of third party data or applications (other than Third Party Software) with the Licensed Intellectual Property, or other integration as may be appropriate and SES will provide periodic advance notification of windows for Scheduled Maintenance and consult periodically with Subscriber on preferred windows for such Scheduled Maintenance outside of Support Hours. Scheduled Maintenance may result in system and Program unavailability or performance degradation.
- 9. EMERGENCY MAINTENANCE NOTIFICATIONS. On rare occasions, SES may experience the need for emergency maintenance, during which time the Licensed Intellectual Property will be unavailable to Subscriber ("Emergency Maintenance"). Except in extraordinary circumstances, SES will notify Subscriber a minimum of thirty (30) minutes prior to any Emergency Maintenance. Where practicable, SES will commence Emergency Maintenance during off-peak hours.
- 10. SERVICE LEVEL COMMITMENTS. During the term of the Agreement, SES shall use commercially reasonable efforts to provide 24 hours, 7 days a week access to the Services with a 99.9% availability, excluding Scheduled Maintenance and Emergency Maintenance. SES will provide the Authorized Subscriber Contact(s) with notice of any Service Outage of the Licensed Intellectual Property promptly after SES becomes aware of such Service Outage. SES will also provide frequent updates to Subscriber until the Service Outage is corrected. Such notification or updates shall include a description of the Service Outage, SES's current understanding of the cause, and SES's estimated resolution time. Upon learning of any Service Outage, SES will devote all reasonably available resources to correcting the Service Outage and restoring system availability.
- 11. REMEDIES. Subscriber's sole remedy for interruption in service caused by a Service Outage is for SES to undertake its applicable Maintenance obligations herein. In the event of a Service Outage that exceeds allotted downtime provided under this SLA and associated DRP, Subscriber's sole and exclusive remedy and SES's sole and exclusive liability to Subscriber shall be to credit future prorated Subscription Fees for the affected Licensed Intellectual Property provided Subscriber has notified SES of said Service Outage in accordance with this SLA or the Agreement, as applicable (unless SES has already notified Subscriber of the Service Outage) and has requested credits in writing within ten (10) days from SES's resolution of the Service Outage. Service Outage credit shall be calculated on a cumulative monthly (calendar month) basis from the time of SES's notification of the Service Outage to SES or Subscriber's notification of the Service Outage during the Support Hours (or if after hours from the time SES reopens for business) and reimbursement shall be calculated based on full fifteen (15) minute increments of Service Outage for any portion thereof and such calculation

shall be based upon the fees paid by Subscriber to SES for the affected Licensed Intellectual Property as set forth in the Agreement.

- 12. DISASTER RECOVERY. Throughout the Term and any Extended Term, SES shall maintain a commercially reasonable data back-up and disaster recovery plan to restore operations in the event of an outage at SES's primary hosting facility (the "DRP"). SES shall provide a copy of the DRP to Subscriber upon request and meet with Subscriber (and any applicable regulatory agency or accrediting body) to discuss and address and comments and concerns, provided such requests and meetings occur no more frequently than one per calendar quarter during the Term and any Extended Term. SES shall not degrade or reduce the level of service or protection set forth in the DRP at any time during the Term or any Extended Term. SES shall segregate all Data from data received by SES outside the scope of the Agreement to which this Service Level Agreement is attached.
- 13. SECURITY AUDIT. SES will complete an internal security audit assessment and penetration test on their technology infrastructure and provide both detailed and summary audit assessment reports upon request. The security audit assessment and penetration test must be repeated at least annually. Such an assessment should include an analysis of systems in regards to current patches, antivirus software and definitions, functioning firewalls, an internal vulnerability scan, and other similar commercially reasonable security best practices performed by a third party using commerciallyreasonable industry recognized standards.
- 14. LIMITATION ON SUPPORT SERVICES. Notwithstanding any other provisions in this SLA, SES shall provide Support Services, including Maintenance, only with respect to the currently-released versions of the Licensed Intellectual Property.
- 15. DESIGNATED SUBSCRIBER PERSONNEL. The Subscriber shall identify by name and location all Subscriber personnel who may contact SES representatives (each, an "Authorized Subscriber Contact"). The personnel identified as an Authorized Subscriber Contact shall have authority to authorize an investigation of Problems, have knowledge of the rules of engagement for Support Services, including Maintenance, and the authority to accept proposed resolutions to any Problems and instruct SES to take action on resolutions to such Problems. SES may, in its sole discretion, rely on the direction and instruction of any Authorized Subscriber Contact without penalty. Subscriber shall provide SES with an Authorized Subscriber Contact List once per calendar year. Upon written request by SES to Subscriber, Subscriber shall, within thirty (30) days of such request, deliver to SES a current Authorized Subscriber Contact List, provided, however, that SES shall not make such request any more frequently than once per calendar quarter and shall not make such request within ninety (90) days of receipt of the annual Authorized Subscriber Contact List.

#### <u>Exhibit E</u>

#### Work Order (for additional services)

This Work Order by and between Secure Exchange Solutions, Inc. ("SES") and [SUBSCRIBER NAME] ("Subscriber") is dated \_\_\_\_\_\_\_ 201\_\_\_\_ (the "Work Order Date") for additional services pursuant to the certain Master Software-as-a-Service Subscription Agreement by and between SES and Subscriber dated [DATE OF MASTER SOFTWARE SUBSCRIPTION AGREEMENT] (the "Master Agreement").

PROJECT NAME / TITLE OF ENGAGEMENT:

PERIOD OF PERFORMANCE:

**DELIVERABLES:** 

KEY PERSONNEL:

PRICING:

INVOICING: Invoices shall be mailed to:

OTHER TERMS:

This Work Order and the services provided hereunder are subject to the terms and conditions of <u>Section 13</u> of the Master Agreement, to which the form of this Work Order is attached as an Exhibit. Any capitalized term on this Work Order not otherwise defined herein shall have the meaning prescribed to them in the Master Agreement and in the event of any conflict between the terms and conditions of this Work Order and the Master Agreement, the terms of the Master Agreement shall control unless such terms provided in this Work Order specifically provide that this Work Order shall control.

Secure Exchange Solutions, Inc.

Dated: \_\_\_\_\_

[SUBSCRIBER NAME]

BY:		 -	
Title:			
			•

BY:	 	
Title:		
-		

Dated:

## **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("BAA") effective October 19, 2020 ("Effective Date"), is entered into by and among between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center ("Covered Entity") and Secure Exchange Solutions, Inc. ("Business Associate") (each a "Party" and collectively the "Parties").

#### RECITALS

A. WHEREAS, Business Associate provides certain Services for Covered Entity that involve the Use and Disclosure of Protected Health Information ("PHI") that is created, received, transmitted, or maintained by Business Associate for or on behalf of Covered Entity.

B. WHEREAS, The Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), and their implementing regulations, including the Standards for the Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E (the "Privacy Rule"), the Breach Notification Standards, 45 C.F.R. Part 160 and 164 subparts A and D (the "Breach Notification Rule"), and the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C (the "Security Rule"), (collectively "HIPAA"), all as amended from time to time.

C. WHEREAS, The Parties are also committed to complying with the California Confidentiality Laws (defined below).

D. WHEREAS, To the extent that Business Associate is performing activities in connection with covered accounts for or on behalf of Covered Entity, the Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 ("Red Flag Rules").

E. WHEREAS, The Privacy and Security Rules require Covered Entity and Business Associate to enter into a business associate agreement that meets certain requirements with respect to the Use and Disclosure of PHI. This BAA, sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information ("EPHI") shall be handled, in accordance with such requirement.

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this BAA, the Parties agree as follows:

#### AGREEMENT

#### 1. <u>DEFINITIONS</u>

BAA Page 1 of 10

1.1 All capitalized terms used in this BAA but not otherwise defined shall have the meaning set forth in the Privacy Rule, the Breach Notification Rule, or the Security Rule.

(a) "Breach" shall have the same meaning as "breach" as defined in 45 C.F.R. § 164.402 and shall mean the access, acquisition, Use, or Disclosure of PHI in a manner not permitted under the Privacy Rule that compromises the privacy or security of the PHI; the term "Breach" as used in this BAA shall also mean the unlawful or unauthorized access to, Use or Disclosure of a patient's "medical information" as defined under Cal. Civil Code § 56.05(j), for which notification is required pursuant to Cal. Health & Safety Code 1280.15, or a "breach of the security of the system" under Cal. Civil Code § 1798.29.

(b) "California Confidentiality Laws" shall mean the applicable laws of the State of California governing the confidentiality of PHI or Personal Information, including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code §56, et seq.), the patient access law (Cal. Health & Safety Code §123100 et seq.), the HIV test result confidentiality law (Cal. Health & Safety Code §120975, et seq.), the Lanterman-Petris-Short Act (Cal. Welf. & Inst. Code §5328, et seq.), and the medical identity theft law (Cal. Civil Code 1798.29).

(c) "Protected Health Information" or "PHI" shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual; (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information that can be used to identify the individuals, and (iii) is provided by Covered Entity to Business Associate or created, maintained, received, or transmitted by Business Associate on Covered Entity's behalf. <u>PHI includes EPHI</u>.

(d) "Services" shall mean the services for or functions on behalf of Covered Entity performed by Business Associate pursuant to a Services Agreement between Covered Entity and Business Associate to which this BAA applies.

### 2. <u>PERMITTED USES AND DISCLOSURES OF PHI</u>

Unless otherwise limited herein, Business Associate may:

(a) Use or Disclose PHI to perform Services for, or on behalf of, Covered Entity, provided that such Use or Disclosure would not violate the Privacy or Security Rules, this BAA, or California Confidentiality Laws;

(b) Use or Disclose PHI for the purposes authorized by this BAA or as otherwise Required by Law;

(c) Use PHI to provide Data Aggregation Services for the Health Care Operations of Covered Entity, if required by the Services Agreement and as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) Use PHI if necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. 164.504(e)(4)(i);

(e) Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted under 45 C.F.R. § 164.504(e)(4)(ii), provided that Disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and be Used or further Disclosed only as Required by Law or for the purpose for which it was Disclosed to the person, and that such person will notify the Business Associate of any instances of which such person is aware that the confidentiality of the information has been breached;

(f) Use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. 164.502(j)(1); and

(g) De-identify any PHI obtained by Business Associate under this BAA in accordance with 45 C.F.R. § 164.514 and Use or Disclose such de-identified information only as required to provide Services pursuant to the a Services Agreement between the Parties, or with the prior written approval of Covered Entity.

### 3. <u>RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI</u>

3.1. <u>Responsibilities of Business Associate</u>. With regard to its Use and/or Disclosure of PHI, Business Associate shall:

Notify the Privacy Officer of Covered Entity, in writing, of: (i) any (a) Use and/or Disclosure of the PHI that is not permitted or required by this BAA; (ii) any Security Incident of which Business Associate becomes aware; and (iii) any suspected Such notice shall be provided within five (5) business days of Business Breach. Associate's discovery of such unauthorized access, acquisition, Use and/or Disclosure. Notwithstanding the foregoing, the Parties acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and unsuccessful log-in attempts. The Parties acknowledge and agree that this Section 3.1(a) constitutes notice by Business Associate to Covered Entity of such ineffective Security Incidents and no additional notification to Covered Entity of such ineffective Security Incidents is required, provided that no such Security Incident results in a Breach. A ransomware attack shall not be considered an ineffective Security Incident and shall be reported to Covered Entity, irrespective of whether such Security Incident results in a Breach. Business Associate shall investigate each Security Incident or unauthorized access, acquisition, Use, or Disclosure of PHI, or suspected Breach that it discovers and shall provide a summary of its investigation to Covered Entity, upon request. If Business Associate or Covered Entity determines that such Security Incident or unauthorized access, acquisition, Use, or Disclosure, or suspected Breach constitutes a Breach, then Business Associate shall comply with the requirements of Section 3.1(a)(i) below;

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(i) Business Associate shall provide a supplemental written report in accordance with 45 C.F.R. § 164.410(c), which shall include, to the extent possible, the identification of each individual whose PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used or Disclosed during the Breach, to Covered Entity without unreasonable delay, but no later than five (5) business days after discovery of the Breach;

(ii) Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the appropriate government agencies, and, if applicable, the media. Business Associate shall assist with the implementation of any decisions by Covered Entity to notify individuals or potentially impacted individuals;

(b) In consultation with the Covered Entity, Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper access, acquisition, Use, or Disclosure, Security Incident, or Breach. Business Associate shall take prompt corrective action, including any action required by applicable State or federal laws and regulations relating to such Security Incident or non-permitted access, acquisition, Use, or Disclosure. Business Associate shall reimburse Covered Entity for its reasonable costs and expenses in providing any required notification to affected individuals, appropriate government agencies, and, if necessary the media, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, public relations costs, attorney fees, and costs of mitigating the harm (which may include the costs of obtaining up to one year of credit monitoring services and identity theft insurance) for affected individuals whose PHI or Personal Information has or may have been compromised as a result of the Breach;

(c) Implement appropriate administrative, physical, and technical safeguards and comply with the Security Rule to prevent Use and/or Disclosure of EPHI other than as provided for by this BAA;

(d) Obtain and maintain a written agreement with each of its Subcontractors that creates, maintains, receives, Uses, transmits or has access to PHI that requires such Subcontractors to adhere to the substantially the same restrictions and conditions with respect to PHI that apply to Business Associate pursuant to this BAA;

(e) Make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the Use and/or Disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity to the Secretary of the Department of Health and Human Services ("Secretary") in a time and manner designated by the Secretary for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule. In addition, Business Associate shall promptly make available to Covered Entity such books, records, or other information relating to the Use and Disclosure of PHI for purposes of determining whether Business Associate has complied with this BAA or maintains adequate security safeguards, upon reasonable request by Covered Entity;

(f) Document Disclosures of PHI and information related to such Disclosure and, within thirty (30) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the Disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the Disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI Disclosed; and (iv) a brief statement of the purpose of such Disclosure which includes an explanation of the basis for such Disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within ten (10) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) Subject to Section 4.4 below, return to Covered Entity within thirty (30) days of the termination of this BAA, the PHI in its possession and retain no copies, including backup copies;

(h) Disclose to its Subcontractors or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) If all or any portion of the PHI is maintained in a Designated Record Set:

(i) Upon ten (10) days' prior written request from Covered Entity, provide access to the PHI to Covered Entity to meet a request by an individual under 45 C.F.R. § 164.524. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for access to PHI from an Individual; and

(ii) Upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for amendment of PHI from an Individual;

(j) If applicable, maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(k) To the extent that Business Associate carries out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations;

(1) Unless prohibited by law, notify the Covered Entity within five (5) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent

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that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge; and

(m) Maintain policies and procedures materially in accordance with State Confidentiality Laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security.

#### 3.2 **Business Associate Acknowledgment**.

(a) Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

(b) Business Associate further acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA and the HITECH Act. Business Associate shall comply with all California Confidentiality Laws, to the extent that such state laws are not preempted by HIPAA or the HITECH Act.

(c) Business Associate further acknowledges that uses and disclosures of protected health information must be consistent with NMC's privacy practices, as stated in NMC's Notice of Privacy Practices. The current Notice of Privacy Practices can be retrieved online at: <u>http://www.natividad.com/quality-and-safety/patient-privacy</u>. Business Associate agrees to review the NMC Notice of Privacy Practices at this URL at least once annually while doing business with NMC to ensure it remains updated on any changes to the Notice of Privacy Practices NMC may make.

**3.3** <u>**Responsibilities of Covered Entity**</u>. Covered Entity shall, with respect to Business Associate:

(a) Provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) Notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI;

(c) Notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the Use or Disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI; and

(d) Notify Business Associate of any restrictions on Use and/or Disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

#### 4. <u>TERM AND TERMINATION</u>

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4.1 <u>Term</u>. This BAA shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Section 4. Certain provisions and requirements of this BAA shall survive its expiration or other termination as set forth in Section 5 herein.

4.2 <u>Termination</u>. If Covered Entity determines in good faith that Business Associate has breached a material term of this BAA, Covered Entity may either: (i) immediately terminate this BAA and any underlying Services Agreement; or (ii) terminate this BAA and any underlying Services Agreement within thirty (30) days of Business Associate's receipt of written notice of such breach, if the breach is not cured to the satisfaction of Covered Entity.

**4.3** <u>Automatic Termination</u>. This BAA shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 Effect of Termination. Upon termination or expiration of this BAA for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(J) if, and to the extent that, it is feasible to do so. Prior to returning the PHI, Business Associate shall recover any PHI in the possession of its Subcontractors. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity with a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its Subcontractors. In such event, Business Associate shall: (i) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or carry out its legal responsibilities; (ii) return to Covered Entity the remaining PHI that the Business Associate maintains in any form; (iii) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains PHI; (iv) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions as set out in Section 2 above, which applied prior to termination; and (vi) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

#### 5. <u>MISCELLANEOUS</u>

5.1 <u>Survival</u>. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 2.1, 4.4, 5.7, 5.8, 5.11, and 5.12 shall survive termination of this BAA until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this BAA, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 <u>Amendments: Waiver</u>. This BAA may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of HIPAA, the HITECH Act, or California Confidentiality

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Laws is materially amended in a manner that changes the obligations of the Parties, the Parties agree to negotiate in good faith appropriate amendment(s) to this BAA to give effect to the revised obligations. Further, no provision of this BAA shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

**5.3** <u>No Third Party Beneficiaries</u>. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 <u>Notices</u>. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

Secure Exchange Solutions. Inc.

Attn	General	Counsel &	Chief	Compliance	Officer
	Blackwel	Rd. Ste.	250		
	e: 301.79				
	301.279.2				

If to Covered Entity, to:

Natividad Medical Center Attn: Compliance/Privacy Officer 1441 Constitution Blvd. Salinas, CA 93906 Phone: 831-755-4111 Fax: 831-755-6254

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

5.5 <u>Counterparts; Facsimiles</u>. This BAA may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 <u>Relationship of Parties</u>. Notwithstanding anything to the contrary in the Services Agreement, Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all Business Associate obligations under this BAA.

5.7 <u>Choice of Law: Interpretation</u>. This BAA shall be governed by the laws of the State of California. Any ambiguities in this BAA shall be resolved in a manner that allows Covered Entity and Business Associate to comply with the Privacy Rule, the Security Rule, and the California Confidentiality Laws.

**5.8 Indemnification**. Business Associate shall indemnify, defend, and hold harmless the County of Monterey (the "County"), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including costs incurred by the County with respect to any investigation, enforcement proceeding, or third party action, arising out of, or in connection with, a violation of this BAA or a Breach that is attributable to an act or omission of Business Associate and/or its agents, members, employees, or Subcontractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the Parties to provide the broadest possible indemnification for the County. This provision is in addition to, and independent of, any indemnification provision in any related or other agreement between the Parties.

5.9 <u>Applicability of Terms.</u> This BAA applies to all present and future Service Agreements and Business Associate relationships, written or unwritten, formal or informal, in which Business Associate creates, receives, transmits, or maintains any PHI for or on behalf of Covered Entity in any form whatsoever. This BAA shall automatically be incorporated in all subsequent agreements between Business Associate and Covered Entity involving the Use or Disclosure of PHI whether or not specifically referenced therein. In the event of any conflict or inconsistency between a provision of this BAA and a provision of any other agreement between Business Associate and Covered Entity, the provision of this BAA shall control unless the provision in such other agreement establishes additional rights for Business Associate or additional duties for or restrictions on Business Associate with respect to PHI, in which case the provision of such other agreement will control.

**5.10 Insurance**. In addition to any general and/or professional liability insurance required of Business Associate, Business Associate agrees to obtain and maintain, at its sole expense, liability insurance on an occurrence basis, covering any and all claims, liabilities, demands, damages, losses, costs and expenses arising from a breach of the obligations of Business Associate, its officers, employees, agents and Subcontractors under this BAA. Such insurance coverage will be maintained for the term of this BAA, and a copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity at Covered Entity's request.

**5.11** <u>Legal Actions</u>. Promptly, but no later than five (5) business days after notice thereof, Business Associate shall advise Covered Entity of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of Covered Entity or jeopardize this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

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**5.12** <u>Audit or Investigations</u>. Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any audit, compliant review, or complaint investigation by the Secretary or other state or federal agency related to compliance with HIPAA, the HITECH Act, or the California Confidentiality Laws.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf as of the Effective Date.

#### **BUSINESS ASSOCIATE**

#### **COVERED ENTITY**

DocuSigned by:	
By:	By:
Adam S. Apatoff Print Name	Gary R. Gray Print Name:
General Counsel/CCO	Chief Executive Officer
Print Title	Print Title:
10/19/2020	
Date:	Date:



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-046

Item No.19

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021

Version: 1

Current Status: Natividad Medical Center -Consent Matter Type: BoS Agreement

Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement (A-13971) with Spin Recruitment Services for advertising recruitment services, extending the agreement an additional eighteen month (18) period (July 1, 2021 through December 31, 2022) for a revised full agreement term of July 1, 2018 through December 31, 2022, and adding \$300,000 for a revised total agreement amount not to exceed \$900,000.

### **<u>RECOMMENDATION</u>**:

### It is recommended the Board of Supervisors:

Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement (A-13971) with Spin Recruitment Services for advertising recruitment services, extending the agreement an additional eighteen month (18) period (July 1, 2021 through December 31, 2022) for a revised full agreement term of July 1, 2018 through December 31, 2022, and adding \$300,000 for a revised total agreement amount not to exceed \$900,000.

### **SUMMARY/DISCUSSION:**

NMC utilizes Spin Recruitment Services to assist with its advertising efforts as a result of Request for Proposal (RFP) # 9600-78. NMC requires the assistance of an advertising agency in identifying highly qualified candidates for various hard to fill healthcare positions within NMC. The agencies selected to perform these services have a significant number of years of experience specific to the Health Care Industry. NMC has hard to fill positions such as Nurses, Respiratory Therapists, Nurse Practitioners, Physical Therapists, Occupational Therapists and other various clinical positions which require extensive advertising outside of our local area. As a result of the number of active recruitments, and the difficulty of filling them, NMC has utilized significant online, newspaper, and direct mail campaigns to find qualified candidates to meet the needs of the facility and provide quality patient care.

### **OTHER AGENCY INVOLVEMENT:**

The Office of County Counsel has reviewed and approved this amendment No. 2 as to form, and the Auditor-Controller has reviewed and approved as to payment provisions. The amendment No. 2 has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on

February 12, 2021.

### **FINANCING:**

The cost for this amendment No. 2 is \$300,000 of which \$200,000 is included in the Fiscal Year 2020-21 Adopted Budget. Amounts for remaining years of the agreement will be included in those budgets as appropriate.

### **BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

The services rendered in this Agreement provide the additional support NMC needs to fill hard to fill healthcare positons in order to continue providing reliable and quality patient care to NMC patients.

- \_\_ Economic Development
- \_\_\_\_ Administration
- X Health and Human Services
- \_\_\_ Infrastructure
- \_\_\_\_ Public Safety

Prepared by: Janine Bouyea, Human Resources Administrator, 783-2701 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2553

Attachments: Spin Recruitment Inc. Amendment No. 2 Spin Recruitment Inc. Amendment No. 1 Spin Recruitment Inc. Agreement

Attachments on file with the Clerk of the Board



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-046

Item No.

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021 Version: 1 Current Status: Agenda Ready Matter Type: BoS Agreement

Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement (A-13971) with Spin Recruitment Services for advertising recruitment services, extending the agreement an additional eighteen month (18) period (July 1, 2021 through December 31, 2022) for a revised full agreement term of July 1, 2018 through December 31, 2022, and adding \$300,000 for a revised total agreement amount not to exceed \$900,000.

### **RECOMMENDATION:**

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### **SUMMARY/DISCUSSION:**

NMC utilizes Spin Recruitment Services to assist with its advertising efforts as a result of Request for Proposal (RFP) # 9600-78. NMC requires the assistance of an advertising agency in identifying highly qualified candidates for various hard to fill healthcare positions within NMC. The agencies selected to perform these services have a significant number of years of experience specific to the Health Care Industry. NMC has hard to fill positions such as Nurses, Respiratory Therapists, Nurse Practitioners, Physical Therapists, Occupational Therapists and other various clinical positions which require extensive advertising outside of our local area. As a result of the number of active recruitments, and the difficulty of filling them, NMC has utilized significant online, newspaper, and direct mail campaigns to find qualified candidates to meet the needs of the facility and provide quality patient care.

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### FINANCING:

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The services rendered in this Agreement provide the additional support NMC needs to fill hard to fill healthcare positons in order to continue providing reliable and quality patient care to NMC patients.

Economic Development

- Administration
- X Health and Human Services

\_\_\_ Infrastructure

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Prepared by: Janine Bouyea, Human Resources Administrator, 783-2701 Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2553

Attachments: Spin Recruitment Inc. Amendment No. 2 Spin Recruitment Inc. Amendment No. 1 Spin Recruitment Inc. Agreement

Attachments on file with the Clerk of the Board

Dr. Gary R. Gray Dr. Gary R. Gray, Chief Executive Officer

<u>2/22/21</u> Date

#### AMENDMENT NO. 2 TO SERVICES AGREEMENT BETWEEN SPIN RECRUITMENT INC. AND NATIVIDAD MEDICAL CENTER FOR ADVERTISING RECRUITMENT SERVICES

This Amendment No. 2 to the Services Agreement ("Agreement") which was effective on July 1, 2018 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"), and Spin Recruitment Inc. (hereinafter "CONTRACTOR"); (collectively, the County, NMC and CONTRACTOR are referred to as the "Parties"), with respect to the following:

#### RECITALS

**WHEREAS**, the Agreement was executed for advertising recruitment services with a term of July 1, 2018 through June 30, 2020 and a total Agreement amount not to exceed \$400,000; and

**WHEREAS**, NMC and CONTRACTOR amended the Agreement on April 28, 2020 via Amendment No. 1 to extend the term for an additional one year period through June 30, 2021 and to add an additional \$200,000, thereby increasing the total Agreement amount to \$600,000; and

WHEREAS, NMC and CONTRACTOR currently wish to amend the Agreement to extend it for an additional eighteen (18) months through December 31, 2022 to allow for services to continue with a \$300,000 increase for a total Agreement amount of \$900,000.

#### AGREEMENT

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the Original Agreement incorporated herein by this reference, except as specifically set forth below.

- 1. <u>Section 4.1</u>, under "TERM OF AGREEMENT" shall be amended to the following: "*The initial term shall commence on July 1, 2018 through and including December 31, 2022, with the option to extend the AGREEMENT two (2) additional one (1) year periods. NMC is not required to state a reason if it elects not to renew this AGREEMENT."*
- 2. <u>Section 5.2</u> under "COMPENSATION AND PAYMENTS shall be amended to the following: "Prices shall remain firm for the initial term of this AGREEMENT and, thereafter, may be adjusted annually as provided in this paragraph. NMC does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT. The total amount payable by NMC under this Agreement is not to exceed the sum of \$900,000. "
- 3. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment No. 2 and shall continue in full force and effect as set forth in the Agreement and in Amendment No. 1.
- 4. A copy of this Amendment No. 2 shall be attached to the Agreement.
- 5. This Amendment No. 2 shall be effective when signed by the last party.

The remainder of this page was intentionally left blank. ~ Signature page to follow ~ **IN WITNESS WHEREOF,** the Parties hereto are in agreement with this Amendment No. 2 on the basis set forth in this document and have executed this Amendment No. 1 on the day and year set forth herein.

NATIVIDAD MEDICAL CENTER CONTRACTOR By: Spin Recruitment Inc. Gary R. Gray, DO, CEO **CONTRACTOR's Business Name** \*\*\*See instructions below\*\*\* Date: By: (Signature of: Chair, President, or Vice-President) APPROVED AS TO LEGAL PROVISIONS By: Monterey County Deputy County Counsel Date: Date: 1/26/2021 By: **APPROVED AS TO FISCAL PROVISIONS** (Signature of: Secretary, Asst. Secretary, CFO. Treasurer, or Asst. Treasurer) By: Monterey County Deputy Auditor/Controller Name and Title 1-26-2021 Date: Date: \*\*\*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 (two signatures required). 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 (two signatures required).

required).

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 (one signature

Legistar File ID No. A 20-078 Agenda Item No. 23



# Monterey County Board of Supervisors

### **Board Order**

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

### Agreement No.: A-13971

Authorize the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute amendment No. 1 to the agreement (A-13971) with Spin Recruitment Services for advertising recruitment services, extending the agreement an additional one (1) year period (July 1, 2020 through June 30, 2021) for a revised full agreement term of July 1, 2018 through June 30, 2021, and adding \$200,000 for a revised total agreement amount not to exceed \$600,000.

PASSED AND ADOPTED on this 28th day of April 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting April 28, 2020.

Dated: April 28, 2020 File ID: A 20-078 Agenda Item No.: 23

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Joel G. Pablo, Deputy

#### AMENDMENT NO. 1 TO SERVICES AGREEMENT BETWEEN SPIN RECRUITMENT INC. AND NATIVIDAD MEDICAL CENTER FOR <u>ADVERTISING RECRUITMENT SERVICES</u>

This Amendment No. 1 to the Services Agreement ("Agreement") which was effective on July 1, 2018 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"), and Spin Recruitment Inc. (hereinafter "CONTRACTOR"); (collectively, the County, NMC and CONTRACTOR are referred to as the "Parties"), with respect to the following:

#### RECITALS

WHEREAS, the Agreement was executed for advertising recruitment services with a term July 1, 2018 through June 30, 2020 and a total Agreement amount not to exceed \$400,000; and

WHEREAS, NMC and CONTRACTOR currently wish to amend the Agreement to extend it for an additional one (1) year period through June 30, 2021 to allow for services to continue with a \$200,000 increase for a total Agreement amount of \$600,000.

#### AGREEMENT

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the Original Agreement incorporated herein by this reference, except as specifically set forth below.

- 1. <u>Section 4.1</u>, under "TERM OF AGREEMENT" shall be amended to the following: "The initial term shall commence on July 1, 2018 through and including June 30, 2021, with the option to extend the AGREEMENT two (2) additional one (1) year periods. NMC is not required to state a reason if it elects not to renew this AGREEMENT."
- 2. <u>Section 5.2</u> under "COMPENSATION AND PAYMENTS shall be amended to the following: "Prices shall remain firm for the initial term of this AGREEMENT and, thereafter, may be adjusted annually as provided in this paragraph. NMC does not guarantee any minimum or maximum amount of dollars to be spend under this AGREEMENT. The total amount payable by NMC under this Agreement is not to exceed the sum of \$600,000."
- 3. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment No. 1 and shall continue in full force and effect as set forth in the Agreement.
- 4. A copy of this Amendment No. 1 shall be attached to the Agreement.
- 5. This Amendment No. 1 shall be effective when signed by both parties.

Amendment No. 1 to Agreement With Spin Recruitment Inc. for Advertising Recruitment Services IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 1 on the basis set forth in this document and have executed this Amendment No. 1 on the day and year set forth herein.

NATIVIDAD MEDICAL CENTER By: Gary R. Gray, DO, CEO Date: APPROVED AS TO LEGAL PROVISIONS By: Monterey County Beputy County Counsel 4/4/2020 Date: APPROVED AS TO FISCAL PROVISIONS bra By: Monterey County Deputy Auditor/Controller 4/6/2020 Date:

### CONTRACTOR

Spin Recruitment Inc. **CONTRACTOR's Business Name** \*\*\*See instructions below\*\*\* By: (Signature of: Chair, President, or Vice-President)

Presid ent P

Date:

By (Signature o Secretary, Asst. Secretary

Treasurer, or Asst. Treasurer)

secretary 20/2020 31 Date:

### \*\*\*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 (two signatures required).

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 (two signatures required).

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 (one signature required).

> Amendment No. 1 to Agreement With Spin Recruitment Inc. for Advertising Recruitment Services

Legistar File ID No. A 18-204 Agenda No. 23.1



# Monterey County Board of Supervisors

Board Order

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066

Agreement No.: A-13971

Upon motion of Supervisor Parker, seconded by Supervisor Phillips and carried by those members present, the Board of Supervisors hereby:

Authorized the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute an agreement with Spin Recruitment Inc. pursuant to the Request for Proposal (RFP) #9600-78 for advertising recruitment services at NMC, with an agreement term beginning on July 1, 2018 through June 30, 2020, with the option to extend the agreement for three (3) additional one (1) year periods; and for an original contract amount not to exceed \$400,000.

PASSED AND ADOPTED on this 19th day of June 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Salinas, Phillips, Parker and Adams NOES: None ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 81 for the meeting June 19, 2018.

Dated: June 26, 2018 File ID: A 18-204 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

By Joel G. Pablo, Deputy

## AGREEMENT BETWEEN NATIVIDAD MEDICAL CENTER (COUNTY OF MONTEREY) AND SPIN RECRUITMENT

This AGREEMENT is made and entered into by the County of Monterey, a political subdivision of the State of California, on behalf of its wholly-owned and operated Natividad Medical Center, hereinafter referred to as "NMC", and Spin Recruitment Inc., hereinafter referred to as "CONTRACTOR."

# 1.0 RECITALS

WHEREAS, NMC has invited proposals through the Request for Proposals (RFP # 9600-78) for Recruitment Advertising Services, in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has submitted a responsive and responsible proposal to perform such services; and

WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested.

NOW THEREFORE, NMC and CONTRACTOR, for the consideration hereinafter named, agree as follows:

# 2.0 PERFORMANCE OF THE AGREEMENT

- 2.1 After consideration and evaluation of the CONTRACTOR'S proposal, NMC hereby engages CONTRACTOR to provide the services set forth in RFP # 9600-78 and in this AGREEMENT on the terms and conditions contained herein and in RFP # 9600-78. The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:
  RFP # 9600-78 dated February 19, 2018, including all attachments and exhibits Addendum 1
  CONTRACTOR'S Proposal dated March 16, 2018, AGREEMENT, Certificate of Insurance Additional Insured Endorsements
- 2.2 All of the above-referenced contract documents are intended to be complementary. Work required by one of the above-referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order: AGREEMENT, CONTRACTOR'S Proposal, RFP #9600-78 including all attachments and exhibits, Addendum/Addenda issued, Certificate of Insurance, and Additional Insured Endorsements.

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- 2.3 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 NMC nor of the County of Monterey, or immediate family of an employee of Natividad Medical Center nor of the County of Monterey.
- 2.4 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.
- 2.5 CONTRACTOR shall procure all necessary permits and licenses and abide by all applicable laws, regulations and ordinances of the United States and of the State of California. The Agency will be in compliance with Title 22, OSHA, Federal and State Labor Laws and the Joint Commission on Accreditation of Health Care Organizations.
  - 2.5.1 CONTRACTOR must maintain all applicable and required licenses throughout the term of the AGREEMENT.
- 2.6 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 Natividad Medical Center premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this AGREEMENT.

# 3.0 SCOPE OF SERVICE

- 3.1 The Scope of Services can be described generally as providing recruitment advertising services, which includes but is not limited to the following:
  - 3.1.1 Development of external and internal Advertising Campaigns for the hospital to include strategic planning, development of materials and reviewing them with NMC staff
  - 3.1.2 Placement of NMC advertising for open positions in newspapers, journals and other specialty publications to target potential candidates
  - 3.1.3 Post various positions on internet websites and social media platforms
  - 3.1.4 Development of Direct Mail recruitment post cards (i.e. purchase mailing list from various sources and mail cards to potential candidates)
  - 3.1.5 Make recommendations to staff on additional sources of potential candidates
  - 3.1.6 Negotiate rates with various publications
  - 3.1.7 Keep NMC informed of new publications, journals, and other advertising sources
  - 3.1.8 Advise NMC of additional or special publications and/or reduces rates when offered
  - 3.1.9 Assist with the development of recognition and retention methods

- 3.1.10 Identify branding materials to assist with recruitment efforts
- 3.1.11 Create Direct Mail campaigns
- 3.1.12 Develop internal campaigns (i.e. promotion of internal referral program, ect.)
- 3.1.13 Video and TV Advertising
- 3.1.14 Social Media Advertising and Communication (including utilization of social media advertising software i.e. Career Arc)

# 4.0 TERM OF AGREEMENT

- 4.1 The initial term shall commence on July 1, 2018 through and including June 30, 2020, with the option to extend the AGREEMENT three (3) additional one (1) year periods. NMC is not required to state a reason if it elects not to renew this AGREEMENT.
- 4.2 If NMC exercises its option to extend, all applicable parties shall mutually agree upon the extension, including any changes in rate and/or terms and conditions.
- 4.3 NMC reserves the right to cancel the AGREEMENT, or any extension of the AGREEMENT, without cause, with a thirty (30) day written notice, or immediately with cause.

# 5.0 COMPENSATION AND PAYMENTS

- 5.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under this AGREEMENT in accordance with the pricing sheet attached hereto as EXHIBIT A PRICING.
- 5.2 Prices shall remain firm for the initial term of this AGREEMENT and, thereafter, may be adjusted annually as provided in this paragraph. NMC does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.
- 5.3 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of this AGREEMENT.
- 5.4 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than 30 days.
- 5.5 CONTRACTOR shall levy no additional fees nor surcharges of any kind during the term of this AGREEMENT without first obtaining approval from NMC in writing.
- 5.6 <u>Tax:</u>
  - 5.6.1 Pricing as per this AGREEMENT is inclusive of all applicable taxes.
  - 5.6.2 County is registered with the Internal Revenue Service, San Francisco office, EIN number 94-6000524. The County is exempt from Federal Transportation Tax; an

exemption certificate is not required where shipping documents show Monterey County as consignee.

### 6.0 INVOICES AND PURCHASE ORDERS

6.1 Invoices for all services rendered per this AGREEMENT shall be billed directly to the Natividad Medical Center Accounts Payable department at the following address:

Natividad Medical Center Accounts Payable Department P.O. Box 81611 Salinas, CA. 93912

Contact Information: Phone: (831) 783-2367 Email: AccountsPayableEmail@natividad.com

- 6.2 CONTACTOR shall reference RFP #9600-78 and the direct order (DO) number on all invoices submitted to NMC. CONTRACTOR shall submit such invoices 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. NMC shall certify the invoice, either in the requested amount or in such other amount as NMC approves in conformity with this AGREEMENT, and shall promptly submit such invoice to the County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
- 6.3 All NMC Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 6.4 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by NMC. Surcharges and additional fees not included the AGREEMENT must be approved by NMC in writing via an Amendment.

## 7.0 STANDARD INDEMNIFICATION

7.1 CONTRACTOR shall indemnify, defend, and hold harmless the County of Monterey, including 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 CONTRACTOR's performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County of Monterey. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

## 8.0 INSURANCE REQUIREMENTS

### 8.1 Evidence of Coverage:

- 8.1.1 Prior to commencement of this AGREEMENT, 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 CONTRACTOR upon request shall provide a certified copy of the policy or policies.
- 8.1.2 This verification of coverage shall be sent to the County of Monterey's Contracts/Purchasing Department, unless otherwise directed. CONTRACTOR shall <u>not</u> receive a "Notice to Proceed" with the work under this AGREEMENT until it has obtained all insurance required and such, insurance has been approved by County of Monterey. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.
- 8.1.3 <u>Qualifying Insurers:</u> 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 County of Monterey's Purchasing Officer.

### 8.2 Insurance Coverage Requirements:

- 8.2.1 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:
  - 8.2.1.1 <u>Commercial general liability insurance</u>, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform 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.
  - 8.2.1.2 <u>Business automobile liability insurance</u>, 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.

- 8.2.1.3 <u>Workers' Compensation Insurance</u>, 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.
- 8.2.1.4 <u>Professional liability insurance</u>, 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, CONTRACTOR shall, upon the expiration or earlier termination of this AGREEMENT.

### 8.3 Other Insurance Requirements:

- 8.3.1 All insurance required by this AGREEMENT shall be with a company acceptable to County of Monterey 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.
- 8.3.2 Each liability policy shall provide that County of Monterey 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.
- 8.3.3 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 of Monterey 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.

- 8.3.4 Prior to the execution of this AGREEMENT by County of Monterey, CONTRACTOR shall file certificates of insurance with County of Monterey's contract administrator and County of Monterey's Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. 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 8.3.5 in force the insurance coverage required under this AGREEMENT and shall send, without demand by County of Monterey, annual certificates to County of Contract Administrator and County Monterey's Monterey's of Contracts/Purchasing Division. If the certificate is not received by the expiration date, County of Monterey 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 of Monterey, at its sole discretion, to terminate this AGREEMENT immediately.

# 9.0 NON-DISCRIMINATION

- 9.1 During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.).
- 9.2 The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12900, et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- 9.3 CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all AGREEMENTs with subcontractors to perform work under the contract.

### **10.0 ASSIGNMENT AND SUBCONTRACTING**

- 10.1 <u>Non-Assignment</u>: CONTRACTOR shall not assign this contract or the work required herein without the prior written consent of NMC.
- 10.2 Subcontractors that have been approved by NMC: Any subcontractor utilized by CONTRACTOR shall comply with all of the County of Monterey requirements stated herein this Agreement including insurance and indemnification sections.

# **11.0 CONFLICT OF INTEREST**

11.1 CONTRACTOR covenants that CONTRACTOR, its responsible officers, and its employees having major responsibilities for the performance of work under the AGREEMENT, presently have no interest and during the term of this AGREEMENT will not acquire any interests, direct or indirect, which might conflict in any manner or degree with the performance of CONTRACTOR'S services under this AGREEMENT.

## **12.0 COMPLIANCE WITH APPLICABLE LAWS**

- 12.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 12.2 CONTRACTOR shall report immediately to NMC, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 12.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

## **13.0 RECORDS AND CONFIDENTIALITY**

13.1 <u>Confidentiality:</u> 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 NMC or prepared

in connection with the performance of this AGREEMENT, unless NMC specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to NMC 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.

- 13.2 <u>NMC Records</u>: When this AGREEMENT expires or terminates, CONTRACTOR shall return to NMC any NMC records which CONTRACTOR used or received from NMC to perform services under this AGREEMENT.
- 13.3 <u>Maintenance of Records</u>: CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, County of Monterey and NMC rules and regulations related to services performed under this AGREEMENT.
- 13.4 <u>Access to and Audit of Records:</u> NMC and the County of Monterey shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its subcontractors related to services provided under this AGREEMENT. The parties to this AGREEMENT may be subject, at the request of NMC or as part of any audit of 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.

# 14.0 FORCE MAJEURE

Neither NMC nor CONTRACTOR shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's reasonable control (a "Force Majeure Event"), including, without limitation, acts of God, war (declared or undeclared), terrorism, action of any governmental authority, civil disturbances, riots, revolutions, vandalism, accidents, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, failure of transportation infrastructure, disruption of public utilities, supply chain interruptions, information systems interruptions or failures, breakdown of machinery or strikes (or similar nonperformance, defective performance or late performance of employees, suppliers or subcontractors); provided, however, that in any such event, each Party shall in good faith use its best efforts to perform its duties and obligations under this Agreement.

If either NMC or CONTRACTOR wishes to claim protection with respect to a Force Majeure Event, it shall as soon as possible following the occurrence or date of such Force Majeure Event, notify the other Party of the nature and expected duration of the force majeure event and shall thereafter keep the other Party informed until such time as it is able to perform its obligations.

## **15.0 INTELLECTUAL PROPERTY RIGHTS**

All data provided by NMC belongs to Natividad Medical Center (County of Monterey). All records compiled by CONTRACTOR in completing the work described in this AGREEMENT, including but not limited to written reports, studies, drawings, blueprints, negatives of photographs, graphs, charts, plans, source codes, specifications and all other similar recorded data, shall become and remain the property of NMC. Use or distribution of NMC data by CONTRACTOR is prohibited unless CONTACTOR obtains prior written consent from NMC.

For NMC data hosted or stored on equipment not owned by NMC, CONTRACTOR shall furnish all data to NMC upon request by NMC at any time during the term of this AGREEMENT and up to one year after the term has expired, in a useable format as specified by NMC and at no additional cost to NMC.

Notwithstanding anything to the contrary contained in this AGREEMENT, it is understood and agreed that CONTRACTOR shall retain all of its rights in its proprietary information including, without limitation, methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge and experience possessed by CONTRACTOR prior to this AGREEMENT.

### **16.0 NOTICES**

Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to NMC contracts division manager or to CONTRACTOR'S responsible officer; (2) when personally delivered to the party's principle place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party's FAX number specified pursuant to this AGREEMENT, provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party's office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.

Notices mailed or faxed to the parties shall be addressed as follows:

TO NMC: Natividad Medical Center CONTRACTS DIVISION 1441 Constitution Blvd Salinas, CA 93906 FAX No.: (831) 757-2592 TO CONTRACTOR: Spin Recruitment Advertising 712 Bancroft Road #521 Walnut Creek, CA 94598 Phone: (925) 944-6060 Email: <u>tracid@spinrecruitment.com</u> FAX No.: (925) 944-6063

# **17.0 LEGAL DISPUTES**

CONTRACTOR agrees that this AGREEMENT, and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.

Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.

CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.

The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge.

-Signature page to follow-

NATIVIDAD MEDICAL CENTER By: Grav. DO. CEO Date: **APPROVED AS TO LEGAL PROVISIONS** By: Monterey County Deputy County Counsel Date: APPROVED AS TO FISCAL PROVISIONS By: Auditor/Controller Monterey County Depu 15 Date:

### **CONTRACTOR**

Spin Recruitment Inc.

**CONTRACTOR's Business Name** \*\*\*See instructions below\*\*\* Bv: (Signature of: Chair, President, or Vice-President) President Date: By: (Signature of: Secretary, Asst. Secretary Treasurer, or Asst. Treasurer) Secve B 8 Date:

#### \*\*\*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 (two signatures required).

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 (two signatures required).

**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 (one signature required).

# EXHIBIT A – PRICING

### RFP #9600-78

### Pricing:

At the core of our service network is a one-of-a-kind cost structure featuring a media commission rebate system. Put simply, we can give you all the services you need at a lower cost than if you were to place your ads directly with the media or through another agency. Our lower commission rate and other cost-containment strategies can offer Natividad Medical Center a savings of as much as 20% over other agencies.

Media costs for print (newspapers and trade journals) and website ads are determined by published rate cards and are based on the amount of space ordered from the media or per posting charges. SPIN begins by obtaining the lowest possible rate from the media and then provides our clients with a rebate on the media commission.

### **Commissionable Media**

Advertising agencies earn most of their income from the media, which reimburses the advertising agency a 15% commission on all media placements. SPIN, however, offers a standard 13% commission structure yielding a rebate of 3.95% on our commission. For example:

Media Charge	\$1,000.00
Less 15% Agency Discount	<\$150.00>
Agency's Cost	\$850.00
SPIN Markup @13%	\$110.50
Ad Placement Fee	<u>\$30.00</u>
Media Cost to Client	\$990.50

\* If you were to go direct to the media, the ad would have cost \$1,000.

### Non-Commissionable Media

In cases where there is no commission offered by the media, the standard advertising agency markup is 17.65% to yield a 15% commission. SPIN will only mark up the media by a rate of 13%, therefore saving you 4.65% over other agencies.

Media Charge	\$1,000.00
SPIN Markup	\$130.00
Ad Placement Fee	<u>\$30.00</u>
Media Cost to Client	\$1,160.00

Prior to ad placement we will provide you with a cost estimate for each ad, and will not move forward with posting the ad before we receive your approval.

Due to the volume of ads that SPIN places, we also have bulk packages with various media and the ability to negotiate lower pricing in some cases.

### **Production/Typesetting Charges**

All display ads will incur a production/typesetting charge of \$15/column inch. This is on top of the \$30 ad placement fee. If you run the same ad in multiple media, the first ad is charged the full typesetting fee, and subsequent ads are charged a \$60 flat rate (in addition to a \$30 ad placement fee).

### **Collateral/Project Charges**

All direct mail, recruitment brochures, flyers, email blasts, booth displays, splash pages, giveaways, employment branding, social media campaigns, etc. will be done on a per project basis and a detailed estimate will be provided for each individual project. Work will not commence without a signed estimate. These types of projects are all estimated based on scope of work and how much time we think the project will take. Tax is only charged on tangible products such as a printed direct mail postcard or brochure, giveaways, a booth display, etc. Tax is not charged on ad placement.



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-035

Item No.20

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/9/2021

Version: 1

Current Status: Health Department -Consent Matter Type: BoS Agreement

a. Ratify the execution by the Director of Health, of an Enterprise Subscription Agreement with Doximity, Inc. signed on January 29, 2021, allowing continued access to the encrypted,
HIPAA-compliant telemedicine dialer feature for the term February 1, 2021 to January 31, 2022 for an Agreement amount of \$25,000; and

b. Approve the recommendation of Director of Health to accept all non-standard provisions in Agreement, including insurance, limitation of liability, and indemnification; and

c. Authorize the Director of Health or Assistant Director of Health or their designees to sign up to three (3) future amendments to this Agreement where the amendments do not significantly change the scope of work.

### **<u>RECOMMENDATION</u>**:

It is recommended that the Board of Supervisors:

a. Ratify the execution by the Director of Health, of an Enterprise Subscription Agreement with Doximity, Inc. signed on January 29, 2021, allowing continued access to the encrypted,

HIPAA-compliant telemedicine dialer feature for the term February 1, 2021 to January 31, 2022 for an Agreement amount of \$25,000; and

b. Approve the recommendation of Director of Health to accept all non-standard provisions in Agreement, including insurance, limitation of liability, and indemnification; and

c. Authorize the Director of Health or Assistant Director of Health or their designees to sign up to three (3) future amendments to this Agreement where the amendments do not significantly change the scope of work.

### SUMMARY/DISCUSSION:

The Health Department Clinic Services Bureau (Clinic Services) operates ten community clinic sites designated as Federally Qualified Health Centers (FQHCs) which provide preventive, primary, and specialty medical care services.

With the COVID-19 pandemic, patient care has shifted significantly to virtual care. This includes phone visits (telehealth), face to face video visits, or a combination of both. Since the pandemic began in March 2020, Clinic Services has had approximately 276K patient encounters through December 2020. Out of these, close to 80% were provided through a virtual visit platform.

Doximity, Inc. is a secure medical network with over 1 million members, that hosts a telemedicine solutions platform for encrypted, HIPPA-compliant audio and video communications with patients. The Doximity Dialer feature works with any smartphone or computer with no downloads or sign-in

required from patients, to provide one-click, unlimited telemedicine visits.

In response to the pandemic's demand for telemedicine services, Doximity offered the Doximity dialer service as a free, basic telemedicine dialer solution to all healthcare workers in 2020. Clinic Services was notified in late November 2020 that the services would be moving to a paid, upgraded subscription effective January 1, 2021. Approval by the Board of Supervisors was delayed due to extensive negotiations of non-standard contract terms and Clinic Services requested execution of the Agreement by the Director of Health, to avoid a lapse in this important, highly utilized telemedicine platform.

Ratification of execution of this Enterprise Subscription Agreement will allow for un-interrupted access to Doximity Dialer's improved product features, including unlimited patient visits, longer visit times and three-way calling to include family members, referring physicians, interpreters, etc.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiatives: 4. Engage MCHD workforce and improve operational functions to meet current and developing population health needs. It also supports one or more of the ten essential public health services, specifically: 4. Mobilize community partnerships and action to identify and solve health problems; and 7. Link people to needed personal health services and assure the provision of health care when otherwise unavailable.

# OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed as to form.

## FINANCING:

Doximity Dialer Enterprise license offers the most cost-effective purchasing option at an annual, flat fee of \$25,000 for unlimited users while an individual user-based license is \$240 per year, per user. The cost of this agreement will be covered by direct patient service revenue from Medi-Cal, Medicare and private health plans.

Sufficient funds are available in the FY 2020-2021 Adopted Budget for Clinic Services Bureau, Health Department (4000-HEA007) and there is no financial impact to the General Fund resulting from approval of this Enterprise Subscription Agreement.

## BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

□Economic Development:

• Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

□Administration:

• Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

⊠Health & Human Services:

• Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

□Infrastructure:

• Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

□Public Safety:

• Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Prisca Segovia, Management Analyst II, 755-4939

Approved by:

\_\_\_\_\_Date:\_\_\_\_\_ Elsa Jimenez, Director of Health, 755-4526

Attachment:

Enterprise Subscription Agreement is on file with Clerk of the Board



# Monterey County

**Board Report** 

Legistar File Number: A 21-035

Salinas, CA 93901

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor

March 02, 2021

Item No.

Introduced: 2/9/2021 Version: 1

Current Status: Agenda Ready Matter Type: BoS Agreement

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an Agreement amount of \$25,000; and

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Check the related Board of Supervisors Strategic Initiatives:

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• Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

□Administration:

• Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

⊠Health & Human Services:

Legistar File Number: A 21-035

• Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

□Infrastructure:

• Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

□Public Safety:

• Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Prisca Segovia, Management Analyst II, 755-4939

Approved by:

DocuSigned by: Classer Date: 2/16/2021 | 3:07 PM PST C7A30BA59CA8423...

Elsa Jimenez, Director of Health, 755-4526

Attachment: Enterprise Subscription Agreement is on file with Clerk of the Board

# doximity

This Doximity Order Form ("Order Form") is entered into by and between Doximity, Inc., located at 500 3rd Street, Suite 510, San Francisco, CA 94107, ("Doximity") and the client identified below ("Client") as of the Order Form's execution by the parties ("Effective Date"), and is subject to the Dialer Enterprise Subscription Agreement(the "Agreement"), a true and correct copy of which is attached hereto. Capitalized terms used in this Order Form but not defined herein have the meanings assigned to them in the Agreement.

Client Name	County of Monterey, on behalf of Monterey County Health Department		
Client Address	1615 Bunker Hill Way, Ste. 140, Salinas, CA 93906		
Client Contact	Prisca Segovia		
Telephone	831-755-4939		
Email	SegoviaP@co.monterey.ca.us		
PO Required?	No		
Tax Exempt?	No (Applicable sales tax will be added to invoiced amounts for all entities unless proof of tax free status is provided.)		

Doximity Agreement Effective Date	Date signed by both Doximity and Client
Subscription Term:	Twelve (12) months from the Effective Date
Authorized Users:	All healthcare provider members of Client's workforce

Service Purchased	Subscription Fee
Dialer Enterprise	\$ 25,000

The fee payable by Client for use of the Service by Authorized Users during the Subscription Term is a flat subscription fee as specified in the table above. Doximity will invoice Client upon the start of the upcoming calendar year, and. For the avoidance of doubt, the Subscription Term is non-cancellable and custom development services are not included within the scope of this Order Form.

The parties hereto have caused this Order Form to be executed by their respective duly authorized representatives as of the Effective Date.

DOXIMITY, INC Signature:	<b>CLIENT</b> Signature:	Consigned by. Cosapet Sumo
David Coffman	Name:	Elsa Jimenez
VP, Finance	Title:	Director of Health
Date: 02/01/2021	Date:	1/29/2021   4:05 PM PST

Doximity, Inc. Dialer Enterprise Subscription Order Form and BAA

APPROVAL SIGNATURE PAGE, (continued)

# **Monterey County Health Department**

Approved as to Legal Form:

By: Stary Satta County Counsel

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

# Approved as to Fiscal Provisions:

By: <u>Cary Gibowy</u> Auditor-Controller

Date: \_\_\_\_\_ 1/29/2021 | 1:51 PM PST

# DOXIMITY DIALER ENTERPRISE SUBSCRIPTION AGREEMENT

is entered by and between Doximity, Inc. ("Doximity"), a Delaware corporation, to the contrary in the Agreement, Fees are based on Service subscriptions having its principal place of business at 500 3rd Street, Suite 510, San Francisco, purchased, not actual usage of the Service, payment obligations are non-CA 94107 and County of Monterey ("County"), on behalf of the Monterey County cancellable, Fees paid are non-refundable, and the Service purchased cannot Health Department, having its place of business at 1615 Bunker Hill Way, Suite be decreased during the relevant Subscription Term, unless otherwise expressly 140, Salinas, California 93906 ("Client"), effective on the date signed by both stated in the Order Form. Doximity and Client ("Effective Date").

mobile applications ("Doximity Platform") for its network of healthcare taxes is applicable, Client will submit such deduction or withholding for professional members ("Doximity Members") through which it provides Doximity taxes to the appropriate governmental authority and will provide a tax Members a communication feature referred to as "Doximity Dialer."

WHEREAS, Doximity has made available for subscription as a service a version of the Doximity Dialer called "Dialer Enterprise" as more fully described on Appendix A attached hereto (collectively, the "Service").

WHEREAS, Client desires to subscribe to the Service, subject to the reference

NOW THEREFORE, in consideration of the mutual covenants and agreements herein, and intending to be legally bound, the parties agree:

1. Service. Doximity grants to Client in accordance with this Agreement a world-wide non-exclusive, non-transferable (except as permitted in this Agreement) right to access and use the Service solely for access and use by consultants, and patient family members ("Client Third Parties"), in such form Client's Authorized Users during the applicable Subscription Term, as the term and substance as required by applicable law; (b) Client and Authorized Users "Authorized Users" and "Subscription Term" are defined in the Order Form, .Doximity shall provide the Service in a professional and workmanlike manner

Client Responsibilities. Client is solely responsible for Authorized Users' use 2. of the Service including, without limitation (a) all communications and other to their use of the Service, including those related to privacy, electronic information transmitted by Authorized Users to or through the Service including the guality, accuracy, legality, and appropriateness of such information; (b) Authorized Users' compliance with applicable law in connection with their use of the Service; (c) all information and results obtained from, and all conclusions. decisions, and actions based on, use of the Service; and (d) ensuring that Authorized Users use the Service to communicate with patients of Client only. authorized to monitor Authorized Users' use of the Service and receive related Doximity may suspend an Authorized User's access to the Service without liability if Doximity believes such Authorized User is using the Service in violation or particular certification is required for Client or an Authorized User to provide of this Agreement or the Terms of Service. Client will notify Doximity promptly healthcare services, such licenses and certifications will be maintained in effect upon any Authorized User no longer being a part of Client's workforce.

Intellectual Property. As between the parties, Doximity exclusively owns the Service. 3 and reserves all right, title, and interest in and to the Service, Doximity Platform, 8 and all data relating to Doximity Members' use thereof, its ideas, know-how, discoveries, inventions, work product, reports, methodologies, processes and procedures, technologies, hardware, software, and all derivatives of the foregoing, and Client has no right, license, or authorization with respect to any of the foregoing, except as expressly set forth in Section 1. Any rights not expressly granted by Doximity are reserved by Doximity. Client grants to Doximity a nonexclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid up license to use and exploit for any purpose without any further obligation to Client any Client-provided suggestions, comments or other feedback ("Feedback") relating to Doximity Platform or the Service. Feedback is provided entirely "as-is", without warranties of any kind. In particular, Client does not warrant it has sufficient rights to grant the foregoing Client, Authorized Users, patients, or any other person or entity will achieve license. All use of the Feedback is at Doximity's sole risk and liability. Doximity shall not identify Client as the source of the Feedback. Doximity waives any and all claims, now known or later discovered, that it may have against Client relating in any way to the Feedback.

Fees and Payment Terms. In consideration for the rights granted to Client 4. hereunder, Client shall pay to Doximity the fees specified in the applicable Order Form (the "Fees"), along with any pre-approved expenses incurred by Doximity, within thirty (30) days of certified receipt of Invoice by Client's Auditor-Controller. Client will certify and deliver the invoice to Client's Auditor-Controller within thirty (30) days of receipt from Doximity, such that the net payment term shall not exceed sixty (60) days. Unless otherwise stated in the Order Form, Fees are invoiced upon the execution of the Order Form. If Client fails to pay an invoice when due, then in addition to its other rights or remedies, Doximity may suspend Doximity and as such, not subject to any of Doximity's security measures.

This Doximity Dialer Enterprise Subscription Agreement ("Agreement"), access to the Service until payment is received in full. Notwithstanding anything

Taxes. Client will make all payments to Doximity without deduction or 5. withholding for taxes except to the extent such is required by the tax laws WHEREAS, Doximity maintains an online platform of websites and of any government authority. In the event a deduction or withholding for certificate to Doximity. In the event state or other sales tax applies to the Service, Doximity will invoice such tax to Client, as a reimbursable expense, and will remit to the relevant authority.

Mutual Warranties. Each party represents and warrants that (a) it has the legal power and authority to enter into the Agreement and grant the rights granted hereunder; (b) the individual executing the Agreement and each Order Form on behalf of a party has been duly authorized, and (c) the Agreement, terms of this Agreement and the HIPAA Business Associate Agreement including each Order Form, when executed and delivered, will constitute a valid attached hereto as Appendix B and incorporated into the Agreement by and binding obligation of such party and will be enforceable against such party ("BAA"). in accordance with its terms.

Client Warranties. Client represents and warrants that: (a) Client has 7. provided all patient privacy notices and obtained any and all authorizations and consents, including any informed consent for use of the Service by Authorized Users and any third party participant in a call conducted through the Service including, without limitation, other healthcare providers. Client personnel, have all rights in and consents to use and disclose any data transmitted by Authorized Users to the Service, such that the use of such data by Doximity to fulfill its obligations to Client will not violate applicable law or the rights of any third party; (c) Client and Authorized Users will comply with all laws applicable communications, and the provision of and reimbursement for healthcare and telehealth, specifically; (d) use of the Service by Client and Authorized Users will not violate or conflict with any agreement or obligation to which Client or any Authorized User is subject including, without limitation, any agreement with a government or private insurer or any other third party payer; (e) Client is duly reporting as part of the Service; and (f) to the extent that a professional license in each jurisdiction where healthcare services are so provided through use of

Warranty Disclaimer. Doximity represents and warrants as follows: (i) to Doximity's knowledge as the Effective Date, Client's permitted access to and use of the Service will not infringe the intellectual property rights of any third party; and (ii) it shall use commercially reasonable efforts to ensure that Doximity does not transmit any viruses, worms, or other harmful or destructive code to Client's systems through the Service; and Except as otherwise provided in this Section 8 Agreement, the Service is provided "as is" and on an "as available" basis. Doximity does not make any other representations or warranties of any kind, express or implied, statutory or otherwise, and specifically disclaims all implied warranties including with respect to title, non-infringement, merchantability, accuracy, or fitness for a particular purpose, and does not guarantee that the Service will perform without interruption or errors, or that desired results from the Service. Doximity disclaims all warranties related to telecommunication providers. Client and Authorized Users assume all responsibility for determining if the Service is appropriate for their purposes.

Security. Doximity will maintain commercially reasonable administrative, 9. physical and technical safeguards designed to protect the confidentiality and integrity of data transmitted to and through the Service. Notwithstanding the foregoing, Client acknowledges that the Service involves the transmission of a video link via a SMS message sent by the applicable Authorized User to the patient, which occurs outside of Doximity's systems. Client acknowledges and agrees that the security of this link is subject to the security measures of the applicable information communication channel, which are independent of EMPLOYEES, SUBCONTRACTORS OR AGENTS HAVE ANY LIABILITY TO exclusive remedy for infringement claims. THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY LOSS OF BUSINESS, 13. Client Indemnification. Client will defend, indemnify, and hold harmless PROFITS, SAVINGS, GOODWILL, LOST DATA, BUSINESS INTERRUPTION OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR attorneys' fees) incurred in connection with claims, demands, suits or PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE SERVICE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR LIABILIITY ARISING FROM through the Service; (b) unauthorized use of the Service by Client or an A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR THIRD Authorized User; (c) Client's breach of any of its representations and warranties PARTY INFRINGEMENT CLAIMS SUBJECT TO INDEMNIFICATION BY in Section 7; and (d) healthcare services provided by or on behalf of Client or DOXIMITY PURSUANT TO SECTION 12 OF THE AGREEMENT, IN NO EVENT any Authorized User, including any alleged negligence with respect thereto. WILL THE AGGREGATE LIABILITY OF EITHER PARTY TO THE OTHER PARTY OR ANY THIRD PARTY FOR CLAIMS ARISING OUT OF OR RELATING TO THE AGREEMENT AND THE SERVICE EXCEED THE FEES PAID BY CLIENT TO DOXIMITY HEREUNDER IN THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE ("STANDARD with Indemnitor (at Indemnitor's expense) in the defense and all related CAP"); PROVIDED, HOWEVER, THAT THAT DOXIMITY'S AGGREGATE negotiations. Indemnitor shall not enter into any stipulated judgment or LIABILITY UNDER SECTION 5.8 OF THE BAA ATTACHED HERETO AS settlement that adversely affects the rights of the Indemnitee without APPENDIX B (INDEMNIFICATION) SHALL NOT EXCEED FIVE (5) TIMES THE Indemnitee's express written authorization, which shall not be unreasonably STANDARD CAP. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, THE FOREGOING EXCLUSIONS AND LIMITATIONS APPLY WHETHER 15. Records. Client is solely responsible for maintaining records of Authorized AN ACTION IS IN CONTRACT OR TORT (INCLUDING NEGLIGENCE), OR Users' use of the Service, including any information transmitted to or through the OTHERWISE) AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A Service. PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR 16. Term. The term of the Agreement commences on the effective date of the IF A PARTY'S REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

11. Confidential Information. "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") that it discloses to the other party ("Receiving Party") and that is marked as "Confidential" and/or duration of the Subscription Term, as specified therein. "Proprietary" or that reasonably should be understood to be confidential given 17. Termination. The Agreement will remain in effect for twelve (12) months the nature of the information and the circumstances of disclosure, including, without limitation, , pricing, business and marketing plans, technology and effective date of termination that is thirty (30) days following the date that written technical information, product designs, and business processes. Confidential notice is received by the other party, provided that such termination will not alter Information does not include information that: (a) is or becomes generally available to the public other than as a result of Receiving Party's breach of this clause; (b) is or becomes available to Receiving Party on a non-confidential basis pay any remaining Fees under any such Order Form, and the Agreement will from a third-party source; (c) was in Receiving Party's possession prior to remain in full force and effect only with respect to such Order Form. The following Disclosing Party's disclosure hereunder; (d) was or is independently developed Sections will survive termination of the Agreement: Sections 3 -5, 7, 10 - 14, 17 by Receiving Party without use of Disclosing Party's Confidential Information. For and 20. the avoidance of doubt, protected health information subject to the BAA is not "Confidential Information" for purposes of this Section. Receiving Party agrees to: (x) protect and safeguard the confidentiality of Disclosing Party's Confidential Information using the standard of care the Receiving Party uses for its own Confidential Information, but in no event less than the standard of care imposed 19. Beta Offerings. Doximity may, from time to time, offer access to services by law or regulation on the relevant information or, in the absence of such a that are classified as Beta offerings (i.e., an offering that is not generally available standard, reasonable care.(y) not use Disclosing Party's Confidential Information for any purpose other than to exercise its rights or perform its obligations under the Agreement; and (z) not disclose Confidential Information except to its without notice. Beta offerings are provided AS IS are not deemed a part of the employees, officers, directors, agents, subcontractors, and advisors who need Service under this Agreement. to know the Confidential Information to assist Receiving Party in exercising its 20. Force Majeure. In no event will Doximity be liable or responsible, or be rights or performing its obligations under the Agreement. Doximity may publicly deemed to have defaulted under or breached this Agreement, for any failure to disclose that Client is a client of Doximity, and the general nature of the services supplied by Doximity to Client hereunder.

12. Doximity Indemnification. Doximity will defend, indemnify, and hold harmless Client from and against all loss, damages or costs (including reasonable attorneys' fees, experts fees, and court costs) arising from claims, demands, suits or proceedings made or brought against Client by a third party alleging that Client's use of the Service in accordance with the Agreement infringes the valid U.S. intellectual property rights of such third party. The foregoing obligation does not apply to the extent the alleged infringement arises from: (a) allegations relating to the transmission by Client or an Authorized User of materials or information transmitted by Client or an Authorized User to or through use of the Service; (b) use of the Service not in accordance with the Agreement; or (c) the combination, operation, or use of the Service with any other hardware, system, software, network, or other materials or service where the Service would not by itself be infringing. If the use of the Service has become, or in Doximity's opinion is likely to become, the subject of a claim of infringement, Doximity may at its option and expense: (x) obtain the right for Client to continue to use the Service as contemplated by the Agreement; (y) modify or replace the Service, in whole or in part, to make it non-infringing, while providing equivalent features and functionality, in which case such modifications or replacements will constitute the Service under the Agreement; or (z) if the foregoing options are not reasonably practicable, terminate the Agreement and refund any unused

10. Limitation of Liability. IN NO EVENT WILL EITHER PARTY, ITS AFFILIATES, pre-paid Fees. This Section 12 states Doximity's sole liability and Client's

Doximity from and against any loss, damage, or costs (including reasonable proceedings made or brought against Doximity by a third party in relation to: (a) any data or other information transmitted by Client or an Authorized User to or

14. Indemnification Procedure. A party seeking indemnification hereunder ("Indemnitee") will give prompt written notice to the indemnifying party ("Indemnitor") of a claim for which it wishes to seek indemnification hereunder. Indemnitor will control the defense of the claim. Indemnitee will fully cooperate withheld or delayed.

first Order Form executed by the parties and will continue until terminated as set forth in Section 17. Each Order Form and Client's subscription to the Service as specified therein commences on the date specified therein and continues for the

from Effective Date, unless earlier terminated by a party in writing with an the parties' respective obligations under an Order Form in effect at such time, Doximity will not refund any Fees nor will Client be relieved of any obligation to

18. Relationship of the Parties. The relationship between the parties is that of independent contractors, and nothing. contained herein shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties.

to users of Doximity Dialer), which Client may choose to try in its sole discretion. Doximity reserves the right to discontinue or modify a Beta offering at any time

perform hereunder when and to the extent such failure is caused by any circumstances beyond Doximity's reasonable control ("Force Majeure Event"). In the event of a Force Majeure Event preventing Doximity's performance hereunder continues for a period of ten (10) business days, Client may terminate this Agreement, without payment of termination fee or penalty, by providing written notice to Doximity. For the avoidance of doubt, in the event Doximity's performance hereunder is the subject of a Force Majeure Event, the fees to be paid by Client shall be equitably adjusted to reflect the period in which performance was affected.

21. Miscellaneous. The Agreement, the Order Forms and the BAA constitute the entire understanding and agreement between Doximity and Client with respect to the subject matter hereof and supersedes any and all prior or contemporaneous oral or written communications concerning the Service. Additional, contrary or inconsistent terms of any purchase order or Client documentation shall be null and void. No shrink-wrap, click-wrap, or other terms and conditions, privacy policies, or agreements ("Additional Terms") provided with any products, services, documentation or software, including any maintenance and support updates thereto, hereunder shall be binding on Client, even if use of such items requires an affirmative "acceptance" of those Additional Terms before access is permitted. All such Additional Terms shall be of no force or effect with respect to Client and shall be deemed rejected by Client in their entirety. No modification, amendment or waiver of any provision of the otherwise specified herein. No waiver by either party of any breach of any the same agreement. A signed copy of the Agreement delivered by email or provision of the Agreement will be deemed a waiver of any subsequent or prior other means of electronic transmission is deemed to have the same legal effect breach. If any provision of the Agreement is held invalid or unenforceable, it shall as delivery of an original signed copy of the Agreement. All required notices will be replaced with the valid provision that most closely reflects the parties' intent. be in writing, addressed to the party as set forth in the Order Form. Any notice All remaining provisions of the Agreement will remain. Client may not assign the may be served personally or by registered mail, return receipt, by courier, or as Agreement without the prior written consent of Doximity. The Agreement will be otherwise stated herein. This Agreement is governed by and construed in binding upon and benefit the parties' respective successors. The Agreement accordance with the laws of the State of California, except that its conflict of law does not confer any benefits on any third party (including any Authorized User, rules shall not apply. The state or federal courts located in San Francisco shall affiliate or patient). Except for payments due Doximity, neither party will be liable have exclusive jurisdiction over any action arising out of this Agreement. for any delays or failures in performance due to circumstances beyond its reasonable control. The Agreement may be executed in counterparts, each of

Agreement will be effective unless in writing and signed by both parties, unless which is deemed an original, but all of which together are deemed to be one and

#### Appendix A: DIALER ENTERPRISE DESCRIPTION

Below is a description of the Dialer Enterprise Service ("Service"). Doximity may modify the Service as it deems appropriate from time to time, provided that in no event will any such modification degrade the quality or functionality of the Service during the then-current Subscription Term.

1. Dialer Enterprise – Dialer Enterprise is a communication service that enables Authorized Users to initiate and conduct secure voice and video calls with their patients from their mobile device or computer. Authorized Users will have access to the following Dialer Enterprise features:

#### A. Unlimited usage

• Authorized Users will not be subject to any usage limits

#### B. Group calling capabilities

• Authorized Users will have the ability to conduct a Dialer Enterprise video call with more than 2 participants

#### C. Engagement and utilization reporting

• Doximity will make available to Client aggregate monthly engagement reports

#### D. Future features exclusive to Dialer Enterprise

• Doximity will endeavor to develop additional features for Dialer Enterprise that build upon its existing capabilities

#### 2. Data Partnership

- E. Clinician training
  - During the applicable Subscription Term and no more frequently than annually upon Client's request, Doximity will provide remote online Dialer Enterprise training to Client's clinical team at a mutually agreeable time and manner.

#### F. Hospital affiliation audit

On a semi-annual basis, Doximity will provide Client a list of clinicians whose Doximity profiles indicate they are affiliated with Client's
institution. Upon Client's request, Doximity will update the relevant profiles based on affiliated clinicians' NPI's provided by the Client,
which updates may be comprehensive for the intuition or specific to individual clinicians. To the extent that Client instructs Doximity
to make any such updates, Client represents and warrants that it is authorized to provide the updated information to Doximity and to
instruct Doximity to make such updates to the specified clinicians' profiles.

#### G. Engagement analysis

Doximity will provide an aggregate insights report highlighting Dialer Enterprise trends and engagement by Authorized Users.
 Doximity will also provide a list of Client-affiliated physicians who are eligible to complete the US News Best Hospitals survey.

#### H. Physician promotion

• Doximity will provide Client materials promoting Doximity registration and engagement, e.g., email templates, articles, and brochures, that Client may distribute to clinicians affiliated with the Client's institution.

Appendix B: BUSINESS ASSOCIATE AGREEMENT

# **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("Agreement"), effective <u>02/01/2021</u>, 2<del>021</del> ("Effective Date"), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of the Health Department ("Covered Entity") and Doximity, Inc. ("Doximity", and in its capacity as a Business Associate, ("Business Associate") (each a "Party" and collectively the "Parties").

Business Associate and Covered Entity have entered into that certain Dialer Enterprise Order Form (the "Underlying Agreement") pursuant to which Business Associate provide certain services for Covered Entity in relation to the Doximity Dialer Enterprise Service(the "Services") that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity ("PHI"). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the "Privacy Rule"), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the "Security Rule"), under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations ("HITECH"). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 et. seq. apply to Business Associate in the same manner that such sections apply to Covered Entity with respect to PHI. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 et seq. ("CMIA"), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information ("EPHI"), shall be handled.

The Parties agree as follows:

#### 1. **DEFINITIONS**

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

#### 2. <u>PERMITTED USES AND DISCLOSURES OF PHI</u>

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform the Services, <u>provided</u> that such use or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, or violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement or the Underlying Agreement; or (iii) as otherwise permitted by the terms of this Agreement or the Underlying Agreement;

© use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e)disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner permitted under 45 C.F.R. § 164.504(e)(4)(ii); provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the persons to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(f) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1);

(g) de-identify any PHI obtained by Business Associate for further use or disclosure to provide and improve the Service (as defined in the Underlying Agreement) in accordance with applicable law.

#### 3. <u>Responsibilities OF The Parties With Respect To PHI</u>

<u>3.1 Responsibilities of Business Associate</u>. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;

(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, within ten (10) business days of Business Associate's determination of the occurrence of such Breach. In such event, the Business Associate shall cooperate with the Covered Entity in its efforts to, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents agree to adhere to restrictions on the use and/or disclosure of PHI that are no less restrictive than those that apply to Business Associate pursuant to this Agreement;

(e) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity or Business Associate's compliance with the Privacy Rule, subject to applicable legal privileges;

(f) document disclosures of PHI and information related to such disclosure as would be required Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, and, within ten business (10) days of receiving a written request from Covered Entity, provide to Covered Entity such information, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within ten  $(10)_{=}$  days, forward such request to the Covered Entity;

(g) use reasonable efforts to disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

- (i) if the Underlying Agreement requires that all or any portion of the PHI be maintained in a Designated Record Set :
  - (i) upon ten (10) business days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and

(ii) upon ten (10) business days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;

(j) notify the Covered Entity within ten (10) business days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge, as reasonably requested by Covered Entity;

The Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

<u>3.2 Additional Responsibilities of Business Associate with Respect to EPHI.</u> In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and

(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware that results in improper use or disclosure of EPHI. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall cooperate with the Covered Entity's efforts to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure of PHI. Notice is hereby deemed provided, and no further notice will be provided, for unsuccessful Security Incidents which shall include, but not be limited to, unauthorized access, use, disclosure, modification, such as pings and other broadcast attacks on a firewall, port scans, unsuccessful login attempts, denial of service attacks, or interception of encrypted information, so long as such incidents do not result, to the extent Business Associate is aware, in unauthorized access, use or disclosure of EPHI.

3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c)notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e)notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

## 4. TERMS AND TERMINATION

<u>4.1 Term</u>. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this <u>Article 4</u>. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in <u>Section 5.1</u> herein.

<u>4.2 Termination</u>. Either Covered Entity or Business Associate may terminate this Agreement if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; <u>provided</u>, <u>however</u>, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the non-breaching Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

<u>4.3 Automatic Termination</u>. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of the Services to Covered Entity.

<u>4.4 Effect of Termination</u>. Business Associate represents that Business Associate's return or destruction of PHI is not feasible, and therefore, Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

## 5. <u>Miscellaneous</u>

<u>5.1 Survival</u>. The respective rights and obligations of Business Associate and Covered Entity under the provisions of <u>Sections 4.4 (Effect of Termination)</u>, <u>5.1 (Survival)</u>, <u>5.6 (Choice of Law)</u>, and <u>Section 2.1</u> (solely with respect to PHI that Business Associate retains in accordance with <u>Section 4.4</u> because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, <u>Section 3.1(i)</u> shall survive termination of this Agreement, <u>provided</u> that Covered Entity determines that the PHI being retained pursuant to <u>Section 4.4</u> constitutes a Designated Record Set.

<u>5.2 Amendments; Waiver</u>. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA or HITECH is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

<u>5.3 No Third Party Beneficiaries</u>. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

<u>5.4 Notices</u>. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to: Doximity, Inc. 500 3<sup>rd</sup> Street, Suite 510 San Francisco, CA 94107 Attn: General Counsel If to Covered Entity, to: <u>Health Department</u> <u>1270 Natividad Road, Salinas, CA 93906</u> Attn: Elsa Jimenez, Director of Health Tel: 831 755- 4526\_\_\_\_\_\_ Fax:

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

5.5. Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

<u>5.6 Choice of Law; Interpretation</u>. This Agreement shall be governed by the laws of the State of California; as <u>provided</u>, <u>however</u>, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

5.7 Liability. Business Associate's liability under this Agreement is subject to the limitations of liability set forth in the Underlying Agreement.

5.8 Indemnification. Subject to Section 10 (Limitations of Liability) and Section 14 (Indemnification Procedure) of the Underlying Agreement, Business Associate will: (a) indemnify and hold harmless Covered Entity, its officers, agents, and employees from any liability, loss, cost, expense, penalty or damage awarded against Covered Entity in a final judgment arising out of any third-party claim resulting from a breach of unsecured PHI (as defined in 45 C.F.R. 164.402) that was caused by Business Associate's violation of HIPAA ("Covered Breach"); and (b) at Covered Entity's request and subject to the terms hereof, reimburse Covered Entity for the reasonable costs incurred by Covered Entity to provide notification of a Covered Breach and to and to mitigate the impact of a Covered Breach, solely to the extent such notifications and mitigation measures are required by applicable law.

<u>5.9 Independent Contractors</u>. None of the provisions of this Agreement are intended to create, nor will they be deemed to create, any relationship between the parties other than that of independent parties contracting with each other as independent contractors solely for the purposes of effecting the provisions of this Agreement. Neither party has the authority to commit the other party in any way and will not attempt to do so or imply that it has the right to do so.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

## COUNTY OF MONTEREY, ON BEHALF OF THE HEALTH DEPARTMENT

[BUSINESS ASSOCIATE]

DocuSigned by: Gesant By A30BA59CA8423 Elsa Jimenez

BV: Val E	

Print Name: \_\_\_\_\_ David Coffman

Print Title: \_\_\_\_\_\_ Director of Health

Print Title: VP Finance

1/29/2021 | 4:05 PM PST

Print Name:

# **ADDENDUM 1**

# to Subscription Agreement ("Agreement") by and between Doximity Dialer, Inc. ("Doximity"), and County of Monterey ("Client")

This Addendum, dated as of the effective date of the Agreement, amends, modifies, and supplements the Agreement by and between Doximity and Client. This Addendum has the full force and effect as if set forth within the Agreement. To the extent that any of the terms or conditions contained in this Addendum may contradict or conflict with any of the terms and conditions of the Agreement, it is expressly understood and agreed that the terms and conditions of this Addendum shall take precedence and supersede the attached Agreement.

NOW, THEREFORE, Doximity and Client agree that the Agreement service terms and conditions shall be amended, modified, and supplemented as follows:

# The following Insurance Section is hereby added to this Agreement:

# 21. INSURANCE REQUIREMENTS.

A. <u>Evidence of Coverage</u>. Prior to commencement of this Agreement, Doximity 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.

This verification of coverage shall be sent to the Client's Contracts/Purchasing Office, unless otherwise directed. Doximity shall not receive approval for services for work under this Agreement until all insurance has been obtained as required and approved by the Client. This approval of insurance shall neither relieve nor decrease the liability of Doximity under this Agreement.

- B. <u>Qualifying Insurers.</u> All coverage, 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
- C. <u>Insurance Coverage Requirements.</u> Without limiting Doximity duty to indemnify Client as set forth in this Agreement, Doximity shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

<u>Commercial General Liability Insurance</u>, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform 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.

<u>Business automobile liability insurance</u>, 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.

Workers Compensation Insurance, if Doximity 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.

<u>Cyber Security Liability</u> (Security & Privacy Liability; Network Interruption; Media Liability; Event Management Expenses; Electronic Data Restoration; Cyber Extortion; Regulatory Defense & Fine) insurance with a limit no less than \$5,000,000 per incident or claim of \$5,000,000 in aggregate.

<u>Other Insurance Requirements</u>. All insurance required by this Agreement shall be with a company 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 (3) years following the date Doximity completes its performance of services under this Agreement.

Client shall be given notice in writing at least thirty (30) calendar days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof that would cause Doximity to no longer satisfy the requirements of this Addendum. Each policy shall provide coverage for Doximity and additional insured 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 policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insured with respect to liability arising out of Doximity'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 Client and that the insurance of the Additional Insured shall not be called upon to contribute to a loss covered by Doximity's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form 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 Client, Doximity shall file certificates of insurance with the Client's contract administrator and the Client's Contracts/Purchasing Office, showing that Doximity has in effect the insurance required by this Agreement. 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.

Doximity shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send following demand by Client, certificates to Client's Contract Administrator and Client's Contracts/Purchasing Office, no more frequently than annually. Failure by Doximity to maintain such insurance coverage is a breach of this Agreement, which entitles Client, at its sole and absolute discretion, to terminate this Agreement if such failure is not cured within five (5) business days from Doximity's receipt of a written termination notice.

# COUNTY OF MONTEREY (Customer)

**DOXIMITY, INC.** 

Authorized Signature:	Authorized Signature:	
DocuSigned by: CD3407 Juny C7A30BA59CA8423	Date: $\frac{1/29/2021}{By:}$ + 4:05 PM PST By: (Title of Signer)	
By: <u>Director of Health</u>	Date: 1/29/2021   4:05 PM PST By:	Date: 02/01/2021
(Title of Signer)	(Title of Signer)	
Approved as to Fiscal Provis	ions:	

-DocuSigned by: Gary Giboney Date: 1/29/2021 | 1:51 PM PST By D3834BFEC1D8449 Auditor-Controller

Approved as to Legal Form:

DocuSigned by: Stacy Saetta Client Counsel Date: 1/29/2021 | 1:48 PM PST By:



# **Monterey County**

# **Board Report**

# Legistar File Number: RES 21-043

March 02, 2021

Introduced: 2/18/2021

Version: 1

Current Status: Health Department -Consent Matter Type: BoS Resolution

Adopt a resolution continuing the Local Health Emergency for the Monterey County Fires Incident.

## **<u>RECOMMENDATION</u>**:

It is recommended that the Board of Supervisors: Adopt a resolution continuing the Local Health Emergency for the Monterey County Fires Incident.

#### SUMMARY:

On August 16, 2020 the River, Dolan and Carmel wildfires (collectively, the "Monterey County Fires") swept through areas of unincorporated Monterey County causing severe damage to areas including but not limited to the Sierra de Salinas range, Carmel Valley and areas of Cachagua and Jamesburg, and Big Sur Ventana Wilderness. On September 3, 2020, Dr. Moreno declared a Local Health Emergency and on September 10, 2020, Dr. Moreno declared a second Local Health Emergency. On September 15, 2020 the Board of Supervisors ratified the September 10th Local Health Emergency. The Board of Supervisors reviewed and continued the Local Health Emergency on October 13, November 5, and December 1, 2020. On December 30, 2020, Dr. Moreno declared a third Local Health Emergency and on January 5, 2021 the Board of Supervisors ratified the Local Health Emergency. On February 2, 2021 the Board of Supervisors reviewed and continued the Local Health Emergency. Review and continuation of the Local Health Emergency by the Board of Supervisors is again requested.

#### DISCUSSION:

The Monterey County Fires have caused damage and destruction of homes and buildings, resulting in ash debris that has been tested and is known to be contaminated with heavy metals, asbestos, and household hazardous waste. As such, the hazardous ash debris poses an exceptional risk of exposure to county residents, various state and local agency employees and private contractor employees. This risk was determined to be an immediate threat to the health and safety of the public, prompting the Monterey County Health Officer to declare a Local Health Emergency on September 3, 2020 which expired after 7 days. On September 10, 2020 the County Health Officer declared a second Local Health emergency and on September 15, 2020 the Board of Supervisors ratified the Local Health emergency. Once ratified, the Board of Supervisors must review at least every 30 days the need for continuing a Local Health Emergency. The Board of supervisors reviewed and continued the Local Health Emergency and on January 5, 2021 the Board of Supervisors ratified the Local Health Officer again declared a third Local Health emergency and on January 5, 2021 the Board of Supervisors reviewed and continued the Local Health emergency and on January 5, 2021 the Board of Supervisors reviewed and continued the Local Health emergency. Nost but not all affected

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901 properties have completed Phase 1 removal of household hazardous waste by the U.S. Environmental Protection Agency. Due to the continued presence of hazardous waste on properties with structural damage as a result of wildfires, conditions warranting the Local Health Emergency continue to exist. Review and continuation of the Local Health Emergency is requested.

# OTHER AGENCY INVOLVEMENT:

Continuance of the Local Health Emergency will allow for cooperation and mutual aid assistance from regional and state agencies to Monterey County Environmental Health and Public Health Bureaus to properly handle and dispose of hazardous waste.

#### FINANCING:

The financial impact of this declaration is undetermined as this time due to the need for further assessment of costs involved with clean up and mitigation of hazardous debris.

## BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

• Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

• Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

• Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

⊠Infrastructure:

• Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

□Public Safety:

• Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Edward Moreno, Health Officer, 755-4585

Approved by:

\_\_\_\_\_Date:\_\_\_\_\_ Elsa Jimenez, Director of Health, 755-4526

Attachments:

Resolution to Continue the Local Health Emergency, is on file with the Clerk of the Board

RES 21-031 Resolution to Continue the Local Health Emergency, adopted February 2, 2021 is on file with the Clerk of the Board

RES 21-008 Resolution Ratifying the December 30, 2020 Declaration of a Local Health Emergency, adopted January 5, 2021 is on file with the Clerk of the Board RES 20-384,

RES 20-384 Resolution to Continue the Local Health Emergency, adopted December 1, 2020 is on file with the Clerk of the Board

RES 20-359, Resolution to Continue the Local Health Emergency, adopted November 5, 2020 is on file with the Clerk of the Board

RES 20-332, Resolution to Continue the Local Health Emergency, adopted October 13, 2020 is on file with the Clerk of the Board

RES 20-298, Resolution Ratifying the September 10, 2020 Declaration of a Local Health Emergency, adopted September 15, 2020 is on file with the Clerk of the Board

Declaration of Local Health Emergency issued on September 10, 2020 is on file with the Clerk of the Board

Declaration of Local Health Emergency issued on September 3, 2020 is on file with the Clerk of the Board



# **Monterey County**

**Board Report** 

Legistar File Number: RES 21-043

Salinas, CA 93901 March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor

Item No.

Introduced: 2/18/2021

Version: 1

Current Status: Agenda Ready Matter Type: BoS Resolution

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On August 16, 2020 the River, Dolan and Carmel wildfires (collectively, the "Monterey County Fires") swept through areas of unincorporated Monterey County causing severe damage to areas including but not limited to the Sierra de Salinas range, Carmel Valley and areas of Cachagua and Jamesburg, and Big Sur Ventana Wilderness. On September 3, 2020, Dr. Moreno declared a Local Health Emergency and on September 10, 2020, Dr. Moreno declared a second Local Health Emergency. On September 15, 2020 the Board of Supervisors ratified the September 10th Local Health Emergency. The Board of Supervisors reviewed and continued the Local Health Emergency on October 13, November 5, and December 1, 2020. On December 30, 2020, Dr. Moreno declared a third Local Health Emergency and on January 5, 2021 the Board of Supervisors ratified the Local Health Emergency. On February 2, 2021 the Board of Supervisors reviewed and continued the Local Health Emergency. Review and continuation of the Local Health Emergency by the Board of Supervisors is again requested.

# DISCUSSION:

The Monterey County Fires have caused damage and destruction of homes and buildings, resulting in ash debris that has been tested and is known to be contaminated with heavy metals, asbestos, and household hazardous waste. As such, the hazardous ash debris poses an exceptional risk of exposure to county residents, various state and local agency employees and private contractor employees. This risk was determined to be an immediate threat to the health and safety of the public, prompting the Monterey County Health Officer to declare a Local Health Emergency on September 3, 2020 which expired after 7 days. On September 10, 2020 the County Health Officer declared a second Local Health emergency and on September 15, 2020 the Board of Supervisors ratified the Local Health emergency. Once ratified, the Board of Supervisors must review at least every 30 days the need for continuing a Local Health Emergency. The Board of supervisors reviewed and continued the Local Health Emergency on October 13, November 5 and December 1, 2020. On December 30, 2020 the County Health Officer again declared a third Local Health emergency and on January 5, 2021 the Board of Supervisors reviewed and continued the Local Health emergency. Nost but not all affected properties have completed Phase 1 removal of household hazardous waste by the U.S. Environmental

#### Legistar File Number: RES 21-043

Protection Agency. Due to the continued presence of hazardous waste on properties with structural damage as a result of wildfires, conditions warranting the Local Health Emergency continue to exist. Review and continuation of the Local Health Emergency is requested.

#### **OTHER AGENCY INVOLVEMENT:**

Continuance of the Local Health Emergency will allow for cooperation and mutual aid assistance from regional and state agencies to Monterey County Environmental Health and Public Health Bureaus to properly handle and dispose of hazardous waste.

#### FINANCING:

The financial impact of this declaration is undetermined as this time due to the need for further assessment of costs involved with clean up and mitigation of hazardous debris.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

• Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

• Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

• Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

⊠Infrastructure:

• Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

□Public Safety:

• Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Edward Moreno, Health Officer, 755-4585

Approved by:

DocuSigned by: GSapro Juny C7A30BA59CA8423... Date: \_\_\_\_\_\_ Date: \_\_\_\_\_

Elsa Jimenez, Director of Health, 755-4526

Attachments:

Resolution to Continue the Local Health Emergency, is on file with the Clerk of the Board RES 21-031 Resolution to Continue the Local Health Emergency, adopted February 2, 2021 is on file

Legistar File Number: RES 21-043

with the Clerk of the Board

RES 21-008 Resolution Ratifying the December 30, 2020 Declaration of a Local Health Emergency, adopted January 5, 2021 is on file with the Clerk of the Board RES 20-384,

RES 20-384 Resolution to Continue the Local Health Emergency, adopted December 1, 2020 is on file with the Clerk of the Board

RES 20-359, Resolution to Continue the Local Health Emergency, adopted November 5, 2020 is on file with the Clerk of the Board

RES 20-332, Resolution to Continue the Local Health Emergency, adopted October 13, 2020 is on file with the Clerk of the Board

RES 20-298, Resolution Ratifying the September 10, 2020 Declaration of a Local Health Emergency, adopted September 15, 2020 is on file with the Clerk of the Board

Declaration of Local Health Emergency issued on September 10, 2020 is on file with the Clerk of the Board

Declaration of Local Health Emergency issued on September 3, 2020 is on file with the Clerk of the Board

# Before the Board of Supervisors in and for the County of Monterey, State of California

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**Resolution No.** Continuing the Local Health Emergency due to the Monterey County Fires Incidents

# **RECITALS:**

WHEREAS, Section 101080 of the California Health and Safety Code empowers the County Health Officer to declare a Local Health Emergency if he or she reasonably determines that conditions of exposure to hazardous waste exist that pose an immediate threat to the public health, and requires the Local Health Emergency to expire after seven days unless ratified by the Board of Supervisors, and requires the Board of Supervisors to review the need for continuing the Local Health Emergency at least once every 30 days and proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination; and,

WHEREAS, the wildfire event known as the River Fire began on August 16, 2020, and destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, on August 17, 2020, the County Administrative Officer (CAO) proclaimed the existence of a local emergency because of the River Fire; and,

WHEREAS, the Board of Supervisors ratified the CAO proclamation on August 18, 2020, and further proclaimed a local emergency because of the wildfire known as the Carmel Fire that began on August 18, 2020 and that wildfire also destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, the wildfire known as the Dolan Fire began on August 19, 2020; and,

WHEREAS, on August 21, 2020, the CAO proclaimed the existence of a local emergency due to the Dolan Fire, and, as of that date, the fire had grown to almost 7,000 acres, destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, on August 25, 2020, the Board of Supervisors ratified the CAO proclamation of a local emergency regarding the Dolan Fire; and,

WHEREAS, as of October 26, 2020, the River Fire burned over 48,000 acres, destroyed and damaged 43 homes, and is 100% contained, the Carmel Fire burned almost 6,700 acres, destroyed

and damaged 80 homes, and is 100% contained, and the Dolan Fire burned over 124,924 acres, and is 100% contained; and,

WHEREAS in destroying private buildings, the River, Carmel and Dolan Fires (collectively, the "Monterey County Fires") have created an accumulation of ash debris, much of which has been determined to be contaminated with heavy metals and asbestos; and,

WHEREAS the circumstances of the accumulation of this contaminated debris as a result of the Monterey County Fires, by reason of the magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single local government and will require the combined forces of a mutual aid region or regions to abate; and,

WHEREAS, Dr. Edward Moreno is the Health Officer of the County of Monterey, and,

WHEREAS, under the provisions of section 101080 of the California Health and Safety Code, Dr. Moreno found that conditions that increase risk of exposure to hazardous waste and threaten the health and safety of the public exist in the areas burned by the Monterey County Fires; and,

WHEREAS, under the provisions of section 101085 of the California Health and Safety Code, Monterey County needs other political subdivisions and State agencies to provide mutual aid, including personnel, equipment and other available resources; and,

WHEREAS, on September 3, 2020, Dr. Moreno, in accordance with the authority vested in him by section 101080 of the California Health and Safety Code, declared a Local Health Emergency for the affected areas of the County of Monterey due to the Monterey County Fires; and,

WHEREAS, in accordance with the powers and duties of the local health officer vested by sections 101085 and 101310 of the California Health and Safety Code, Dr. Moreno has ordered that all assisting state agencies, in particular the State Department of Toxics Substance Control, Office of Emergencies Services, the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County Fire incidents; and,

WHEREAS, Dr. Moreno has further ordered that all persons are to heed the directions of emergency officials with regard to this emergency in order to protect their health and safety. This may include temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners; and

WHEREAS, the earliest meeting at which ratification of the Local Health Emergency could be scheduled for consideration by the Board of Supervisors was its regular meeting on September 15, 2020, which was beyond the seven-day requirement for ratification by the Board of Supervisors; and, WHEREAS, accordingly, Dr. Moreno declared a second Local Health Emergency on September 10, 2020, with the same terms and provisions as his Local Health Emergency of September 3, 2020;

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for ratification on September 15, 2020 and at that meeting, the Board of Supervisors ratified the Local Health Emergency issued by the Health Officer; and

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for review on October 13, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for review on November 5, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for review on December 1, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

WHEREAS, the next meeting at which continuance of the Local Health Emergency could be scheduled for consideration by the Board of Supervisors was its regular meeting on January 5, 2021, which was beyond the thirty-day requirement for continuance by the Board of Supervisors; and

WHEREAS, accordingly, Dr. Moreno declared a third Local Health Emergency on December 30, 2020, with the same terms and provisions as his Local Health Emergency of September 10, 2020; and

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for ratification on January 5, 2021 and at that meeting, the Board of Supervisors ratified the Local Health Emergency issued by the Health Officer; and

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for review on February 02, 2021 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

WHEREAS, most but not all properties have completed Phase 1 removal of household hazardous waste by the California Environmental Protection Agency; and

WHEREAS, emergency conditions continue to exist, necessitating review and continuation of the Local Health Emergency;

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of Supervisors in and for the County of Monterey as follows:

1. The above recitals are true and correct.

2. Conditions that threaten public health and safety as defined in sections 101075 and 101080 of the California Health and Safety Code continue to exist.

3. The Board of Supervisors continues the Local Health Emergency and orders issued pursuant thereto.

4. Pursuant to section 101080 of the California Health and Safety Code, the Board of Supervisors shall review the need for continuing the Local Health Emergency at least every 30 days and shall proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination.

PASSED AND ADOPTED on this 2<sup>nd</sup> day of March 2021, by roll-call vote:

AYES: NOES: ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book\_\_\_\_\_ for the meeting on March 2, 2021.

Dated: File ID: RES Agenda Item No.: Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

, Deputy

Legistar File ID No. RES 21-019 Agenda Item No. 20



# Monterey County Board of Supervisors

# **Board Order**

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor Chris Lopez, seconded by Supervisor John M. Phillips to:

**Resolution No.: 21-031** Continue the Local Health Emergency for the Monterey County Fires Incident.

PASSED AND ADOPTED on this 2<sup>nd</sup> day of February 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting February 2, 2021.

Dated: February 11, 2021 File ID: RES 21-019 Agenda Item No.: 20 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

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Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No.: 21-031 Continuing the Local Health Emergency due to ) the Monterey County Fires Incidents......)

# **RECITALS:**

**WHEREAS**, Section 101080 of the California Health and Safety Code empowers the County Health Officer to declare a Local Health Emergency if he or she reasonably determines that conditions of exposure to hazardous waste exist that pose an immediate threat to the public health, and requires the Local Health Emergency to expire after seven days unless ratified by the Board of Supervisors, and requires the Board of Supervisors to review the need for continuing the Local Health Emergency at least once every 30 days and proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination; and,

**WHEREAS**, the wildfire event known as the River Fire began on August 16, 2020, and destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

**WHEREAS**, on August 17, 2020, the County Administrative Officer (CAO) proclaimed the existence of a local emergency because of the River Fire; and,

**WHEREAS**, the Board of Supervisors ratified the CAO proclamation on August 18, 2020, and further proclaimed a local emergency because of the wildfire known as the Carmel Fire that began on August 18, 2020 and that wildfire also destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, the wildfire known as the Dolan Fire began on August 19, 2020; and,

**WHEREAS**, on August 21, 2020, the CAO proclaimed the existence of a local emergency due to the Dolan Fire, and, as of that date, the fire had grown to almost 7,000 acres, destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

**WHEREAS**, on August 25, 2020, the Board of Supervisors ratified the CAO proclamation of a local emergency regarding the Dolan Fire; and,

**WHEREAS**, as of October 26, 2020, the River Fire burned over 48,000 acres, destroyed and damaged 43 homes, and is 100% contained, the Carmel Fire burned almost 6,700 acres, destroyed and damaged 80 homes, and is 100% contained, and the Dolan Fire burned over 124,924 acres, and is 100% contained; and,

**WHEREAS** in destroying private buildings, the River, Carmel and Dolan Fires (collectively, the "Monterey County Fires") have created an accumulation of ash debris, much of which has been determined to be contaminated with heavy metals and asbestos; and,

# Legistar File ID No. RES 21-019 Agenda Item No. 20

**WHEREAS** the circumstances of the accumulation of this contaminated debris as a result of the Monterey County Fires, by reason of the magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single local government and will require the combined forces of a mutual aid region or regions to abate; and,

WHEREAS, Dr. Edward Moreno is the Health Officer of the County of Monterey, and,

**WHEREAS**, under the provisions of section 101080 of the California Health and Safety Code, Dr. Moreno found that conditions that increase risk of exposure to hazardous waste and threaten the health and safety of the public exist in the areas burned by the Monterey County Fires; and,

**WHEREAS**, under the provisions of section 101085 of the California Health and Safety Code, Monterey County needs other political subdivisions and State agencies to provide mutual aid, including personnel, equipment and other available resources; and,

**WHEREAS**, on September 3, 2020, Dr. Moreno, in accordance with the authority vested in him by section 101080 of the California Health and Safety Code, declared a Local Health Emergency for the affected areas of the County of Monterey due to the Monterey County Fires; and,

**WHEREAS**, in accordance with the powers and duties of the local health officer vested by sections 101085 and 101310 of the California Health and Safety Code, Dr. Moreno has ordered that all assisting state agencies, in particular the State Department of Toxics Substance Control, Office of Emergencies Services, the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County Fire incidents; and,

**WHEREAS**, Dr. Moreno has further ordered that all persons are to heed the directions of emergency officials with regard to this emergency in order to protect their health and safety. This may include temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners; and

**WHEREAS,** the earliest meeting at which ratification of the Local Health Emergency could be scheduled for consideration by the Board of Supervisors was its regular meeting on September 15, 2020, which was beyond the seven-day requirement for ratification by the Board of Supervisors; and,

**WHEREAS**, accordingly, Dr. Moreno declared a second Local Health Emergency on September 10, 2020, with the same terms and provisions as his Local Health Emergency of September 3, 2020;

**WHEREAS**, the Local Health Emergency was brought to the Board of Supervisors for ratification on September 15, 2020 and at that meeting, the Board of Supervisors ratified the Local Health Emergency issued by the Health Officer; and

**WHEREAS**, the Local Health Emergency was brought to the Board of Supervisors for review on October 13, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

**WHEREAS**, the Local Health Emergency was brought to the Board of Supervisors for review on November 5, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

**WHEREAS**, the Local Health Emergency was brought to the Board of Supervisors for review on December 1, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

**WHEREAS**, the next meeting at which continuance of the Local Health Emergency could be scheduled for consideration by the Board of Supervisors was its regular meeting on January 5, 2021, which was beyond the thirty-day requirement for continuance by the Board of Supervisors; and,

**WHEREAS**, accordingly, Dr. Moreno declared a third Local Health Emergency on December 30, 2020, with the same terms and provisions as his Local Health Emergency of September 10, 2020; and,

**WHEREAS**, the Local Health Emergency was brought to the Board of Supervisors for ratification on January 5, 2021 and at that meeting, the Board of Supervisors ratified the Local Health Emergency issued by the Health Officer; and

**WHEREAS**, most but not all properties have completed Phase 1 removal of household hazardous waste by the California Environmental Protection Agency; and

**WHEREAS**, emergency conditions continue to exist, necessitating review and continuation of the Local Health Emergency;

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of Supervisors in and for the County of Monterey as follows:

1. The above recitals are true and correct.

2. Conditions that threaten public health and safety as defined in sections 101075 and 101080 of the California Health and Safety Code continue to exist.

3. The Board of Supervisors continues the Local Health Emergency and orders issued pursuant thereto.

4. Pursuant to section 101080 of the California Health and Safety Code, the Board of Supervisors shall review the need for continuing the Local Health Emergency at least every 30 days and shall proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination.

**PASSED AND ADOPTED** on this 2<sup>nd</sup> day of February 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams NOES: None ABSENT: None (Government Code 54953) Legistar File ID No. RES 21-019 Agenda Item No. 20

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting February 2, 2021.

Dated: February 3, 2021 File ID: RES 21-019 Agenda Item No.: 20 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

7011 Julian Lorenzana, Deputy

Legistar File ID No. RES 21-007 Agenda Item No. 25.1



# Monterey County Board of Supervisors

# **Board Order**

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor Mary L. Adams to:

# Adopt Resolution No.: 21-008

Ratify the Local Health Emergency for the Monterey County Fires Incident as declared by Edward Moreno, Health Officer of the County of Monterey.

PASSED AND ADOPTED on this 5<sup>th</sup> day of January 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting January 19, 2021.

Dated: January 19, 2021 File ID: RES 21-007 Agenda Item No.: 25.1 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

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Legistar File ID No. RES 21-007 Agenda Item No. 25.1

### Before the Board of Supervisors in and for the County of Monterey, State of California

**Resolution No. 21-008** Ratifying the Declaration by the Health Officer of the County of Monterey of ) a Local Health Emergency due to the Monterey County Fires Incident.....)

### **RECITALS:**

**WHEREAS**, Section 101080 of the California Health and Safety Code empowers the County Health Officer to declare a Local Health Emergency if he or she reasonably determines that conditions of exposure to hazardous waste exist that pose an immediate threat to the public health, and requires the Local Health Emergency to expire after seven days unless ratified by the Board of Supervisors, and requires the Board of Supervisors to review the need for continuing the Local Health Emergency at least once every 30 days and proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination; and,

**WHEREAS**, the wildfire event known as the River Fire began on August 16, 2020, and destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

**WHEREAS**, on August 17, 2020, the County Administrative Officer (CAO) proclaimed the existence of a local emergency because of the River Fire; and,

**WHEREAS**, the Board of Supervisors ratified the CAO proclamation on August 18, 2020, and further proclaimed a local emergency because of the wildfire known as the Carmel Fire that began on August 18, 2020 and that wildfire also destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, the wildfire known as the Dolan Fire began on August 19, 2020; and,

**WHEREAS**, on August 21, 2020, the CAO proclaimed the existence of a local emergency due to the Dolan Fire, and, as of that date, the fire had grown to almost 7,000 acres, destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

**WHEREAS**, on August 25, 2020, the Board of Supervisors ratified the CAO proclamation of a local emergency regarding the Dolan Fire; and,

**WHEREAS**, as of October 26, 2020, the River Fire burned over 48,000 acres, destroyed and damaged 43 homes, and was 100% contained, the Carmel Fire burned almost 6,700 acres, destroyed and damaged 80 homes, and was 100% contained, and the Dolan Fire burned over 124,924 acres, and was 100% contained; and,

**WHEREAS** in destroying private buildings, the River, Carmel and Dolan Fires (collectively, the "Monterey County Fires") have created an accumulation of ash debris, much of which has been determined to be contaminated with heavy metals and asbestos; and,

**WHEREAS** the circumstances of the accumulation of this contaminated debris as a result of the Monterey County Fires, by reason of the magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single local government and will require the combined forces of a mutual aid region or regions to abate; and,

WHEREAS, Dr. Edward Moreno is the Health Officer of the County of Monterey, and,

**WHEREAS**, under the provisions of section 101080 of the California Health and Safety Code, Dr. Moreno found that conditions that increase risk of exposure to hazardous waste and threaten the health and safety of the public exist in the areas burned by the Monterey County Fires; and,

**WHEREAS**, under the provisions of section 101085 of the California Health and Safety Code, Monterey County needs other political subdivisions and State agencies to provide mutual aid, including personnel, equipment and other available resources; and,

**WHEREAS**, on September 3, 2020, Dr. Moreno, in accordance with the authority vested in him by section 101080 of the California Health and Safety Code, declared a Local Health Emergency for the affected areas of the County of Monterey due to the Monterey County Fires; and,

**WHEREAS**, in accordance with the powers and duties of the local health officer vested by sections 101085 and 101310 of the California Health and Safety Code, Dr. Moreno ordered that all assisting state agencies, in particular the State Department of Toxics Substance Control, Office of Emergencies Services, the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County Fire incidents; and,

**WHEREAS**, Dr. Moreno further ordered that all persons are to heed the directions of emergency officials with regard to this emergency in order to protect their health and safety. This may include temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners; and

**WHEREAS**, the earliest meeting at which ratification of the Local Health Emergency could be scheduled for consideration by the Board of Supervisors was its regular meeting on September 15, 2020, which was beyond the seven-day requirement for ratification by the Board of Supervisors; and,

**WHEREAS**, accordingly, Dr. Moreno declared a second Local Health Emergency on September 10, 2020, with the same terms and provisions as his Local Health Emergency of September 3, 2020;

**WHEREAS**, the Local Health Emergency was brought to the Board of Supervisors for ratification on September 15, 2020 and at that meeting, the Board of Supervisors ratified the Local Health Emergency issued by the Health Officer; and

**WHEREAS**, the Local Health Emergency was brought to the Board of Supervisors for review on October 13, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

**WHEREAS**, the Local Health Emergency was brought to the Board of Supervisors for review on November 5, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

**WHEREAS**, the Local Health Emergency was brought to the Board of Supervisors for review on December 1, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

**WHEREAS**, the next meeting at which continuance of the Local Health Emergency can be scheduled for consideration by the Board of Supervisors is its regular meeting on January 5, 2021, which is beyond the thirty-day requirement for continuance by the Board of Supervisors; and,

**WHEREAS**, accordingly, Dr. Moreno declared a third Local Health Emergency on December 30, 2020, with the same terms and provisions as his Local Health Emergency of September 10, 2020;

**WHEREAS**, most but not all properties have completed Phase 1 removal of household hazardous waste by the California Environmental Protection Agency; and

WHEREAS, emergency conditions continue to exist, necessitating a Local Health Emergency;

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of Supervisors in and for the County of Monterey as follows:

1. The above recitals are true and correct.

2. The actions of the Health Officer of the County of Monterey in response to the local health emergency, including the Declaration of Local Health Emergency issued by the Health Officer and orders pursuant thereto, are hereby ratified by the Board of Supervisors of the County of Monterey.

3. Pursuant to section 101080 of the California Health and Safety Code, the Board of Supervisors shall review the need for continuing the local health emergency at least once every 30 days and shall proclaim the termination of the local health emergency at the earliest possible date that conditions warrant the termination.

**PASSED AND ADOPTED** on this 5<sup>th</sup> day of January 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams NOES: None ABSENT: None (Government Code 54953)

### Legistar File ID No. RES 21-007 Agenda Item No. 25.1

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting January 5, 2021.

Dated: January 19, 2021 File ID: RES 21-007 Agenda Item No.: 25.1 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

MA Mh Julian Lorenzana, Deputy

Legistar File ID No. RES 20-208 Agenda Item No. 24



## Monterey County Board of Supervisors

## **Board Order**

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

**Resolution No.: 20 - 384** Adopt a resolution continuing the Local Health Emergency for the Monterey County Fires Incident.

PASSED AND ADOPTED on this 1<sup>st</sup> day of December 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting December 1, 2020.

Dated: December 1, 2020 File ID: RES 20-208 Agenda Item No.: 24 Valerie Ralph, Clerk of the Board of Supervisors County, of Monterey, State of California

Joel G. Pablo, Deputy

### Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 20 - 384Continuing the Local Health)Emergency due to the Monterey)County Fires Incidents.....)

### **RECITALS:**

WHEREAS, Section 101080 of the California Health and Safety Code empowers the County Health Officer to declare a Local Health Emergency if he or she reasonably determines that conditions of exposure to hazardous waste exist that pose an immediate threat to the public health, and requires the Local Health Emergency to expire after seven days unless ratified by the Board of Supervisors, and requires the Board of Supervisors to review the need for continuing the Local Health Emergency at least once every 30 days and proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination; and,

WHEREAS, the wildfire event known as the River Fire began on August 16, 2020, and destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, on August 17, 2020, the County Administrative Officer (CAO) proclaimed the existence of a local emergency because of the River Fire; and,

WHEREAS, the Board of Supervisors ratified the CAO proclamation on August 18, 2020, and further proclaimed a local emergency because of the wildfire known as the Carmel Fire that began on August 18, 2020 and that wildfire also destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, the wildfire known as the Dolan Fire began on August 19, 2020; and,

WHEREAS, on August 21, 2020, the CAO proclaimed the existence of a local emergency due to the Dolan Fire, and, as of that date, the fire had grown to almost 7,000 acres, destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, on August 25, 2020, the Board of Supervisors ratified the CAO proclamation of a local emergency regarding the Dolan Fire; and,

WHEREAS, as of October 26, 2020, the River Fire burned over 48,000 acres, destroyed and damaged 43 homes, and is 100% contained, the Carmel Fire burned almost 6,700 acres, destroyed and damaged 80 homes, and is 100% contained, and the Dolan Fire burned over 124,924 acres, and is 100% contained; and,

WHEREAS in destroying private buildings, the River, Carmel and Dolan Fires (collectively, the

### Legistar File ID No. RES 20-208 Agenda Item No. 24

"Monterey County Fires") have created an accumulation of ash debris, much of which has been determined to be contaminated with heavy metals and asbestos; and,

WHEREAS the circumstances of the accumulation of this contaminated debris as a result of the Monterey County Fires, by reason of the magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single local government and will require the combined forces of a mutual aid region or regions to abate; and,

WHEREAS, Dr. Edward Moreno is the Health Officer of the County of Monterey, and,

WHEREAS, under the provisions of section 101080 of the California Health and Safety Code, Dr. Moreno found that conditions that increase risk of exposure to hazardous waste and threaten the health and safety of the public exist in the areas burned by the Monterey County Fires; and,

WHEREAS, under the provisions of section 101085 of the California Health and Safety Code, Monterey County needs other political subdivisions and State agencies to provide mutual aid, including personnel, equipment and other available resources; and,

WHEREAS, on September 3, 2020, Dr. Moreno, in accordance with the authority vested in him by section 101080 of the California Health and Safety Code, declared a Local Health Emergency for the affected areas of the County of Monterey due to the Monterey County Fires; and,

WHEREAS, in accordance with the powers and duties of the local health officer vested by sections 101085 and 101310 of the California Health and Safety Code, Dr. Moreno has ordered that all assisting state agencies, in particular the State Department of Toxics Substance Control, Office of Emergencies Services, the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County Fire incidents; and,

WHEREAS, Dr. Moreno has further ordered that all persons are to heed the directions of emergency officials with regard to this emergency in order to protect their health and safety. This may include temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners; and

WHEREAS, the earliest meeting at which ratification of the Local Health Emergency could be scheduled for consideration by the Board of Supervisors was its regular meeting on September 15, 2020, which was beyond the seven-day requirement for ratification by the Board of Supervisors; and,

WHEREAS, accordingly, Dr. Moreno declared a second Local Health Emergency on September 10, 2020, with the same terms and provisions as his Local Health Emergency of September 3, 2020;

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for ratification on September 15, 2020 and at that meeting, the Board of Supervisors ratified the Local Health Emergency issued by the Health Officer; and

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for review on October 13, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

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WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for review on November 5, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

WHEREAS, most but not all properties have completed Phase 1 removal of household hazardous waste by the California Environmental Protection Agency; and

WHEREAS, emergency conditions continue to exist, necessitating review and continuation of the Local Health Emergency;

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of Supervisors in and for the County of Monterey as follows:

1. The above recitals are true and correct.

2. Conditions that threaten public health and safety as defined in sections 101075 and 101080 of the California Health and Safety Code continue to exist.

3. The Board of Supervisors continues the Local Health Emergency and orders issued pursuant thereto.

4. Pursuant to section 101080 of the California Health and Safety Code, the Board of Supervisors shall review the need for continuing the Local Health Emergency at least every 30 days and shall proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination.

PASSED AND ADOPTED on this 1<sup>st</sup> day of December 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting December 1, 2020.

Dated: December 1, 2020 File ID: RES 20-208 Agenda Item No.: 24 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Joel G. Pablo, Deputy

Legistar File ID No. RES 20-191 Agenda Item No. 19



## Monterey County Board of Supervisors

## **Board Order**

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Jane Parker to:

Adopted Resolution No. 20-359 continuing the Local Health Emergency for the Monterey County Fires Incident.

PASSED AND ADOPTED on this 5<sup>th</sup> day of November 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez and Parker NOES: None ABSENT: Supervisor Adams (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting November 5, 2020.

Dated: November 5, 2020 File ID: RES 20-191 Agenda Item No.: 19 Valerie Ralph, Clerk of the Board of Supervisors County, of Monterey, State of California

Joel G. Pablo, Deputy

### Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 20 - 359Continuing the Local Health)Emergency due to the Monterey)County Fires Incidents.....)

### **RECITALS:**

WHEREAS, Section 101080 of the California Health and Safety Code empowers the County Health Officer to declare a Local Health Emergency if he or she reasonably determines that conditions of exposure to hazardous waste exist that pose an immediate threat to the public health, and requires the Local Health Emergency to expire after seven days unless ratified by the Board of Supervisors, and requires the Board of Supervisors to review the need for continuing the Local Health Emergency at least once every 30 days and proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination; and,

WHEREAS, the wildfire event known as the River Fire began on August 16, 2020, and destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, on August 17, 2020, the County Administrative Officer (CAO) proclaimed the existence of a local emergency because of the River Fire; and,

WHEREAS, the Board of Supervisors ratified the CAO proclamation on August 18, 2020, and further proclaimed a local emergency because of the wildfire known as the Carmel Fire that began on August 18, 2020 and that wildfire also destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, the wildfire known as the Dolan Fire began on August 19, 2020; and,

WHEREAS, on August 21, 2020, the CAO proclaimed the existence of a local emergency due to the Dolan Fire, and, as of that date, the fire had grown to almost 7,000 acres, destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, on August 25, 2020, the Board of Supervisors ratified the CAO proclamation of a local emergency regarding the Dolan Fire; and,

WHEREAS, as of October 26, 2020, the River Fire burned over 48,000 acres, destroyed and damaged 43 homes, and is 100% contained, the Carmel Fire burned almost 6,700 acres, destroyed and damaged 80 homes, and is 100% contained, and the Dolan Fire burned over 124,924 acres, and is 100% contained; and,

WHEREAS in destroying private buildings, the River, Carmel and Dolan Fires (collectively, the "Monterey County Fires") have created an accumulation of ash debris, much of which has been determined

Legistar File ID No. RES 20-191 Agenda Item No. 19

to be contaminated with heavy metals and asbestos; and,

WHEREAS the circumstances of the accumulation of this contaminated debris as a result of the Monterey County Fires, by reason of the magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single local government and will require the combined forces of a mutual aid region or regions to abate; and,

WHEREAS, Dr. Edward Moreno is the Health Officer of the County of Monterey, and,

WHEREAS, under the provisions of section 101080 of the California Health and Safety Code, Dr. Moreno found that conditions that increase risk of exposure to hazardous waste and threaten the health and safety of the public exist in the areas burned by the Monterey County Fires; and,

WHEREAS, under the provisions of section 101085 of the California Health and Safety Code, Monterey County needs other political subdivisions and State agencies to provide mutual aid, including personnel, equipment and other available resources; and,

WHEREAS, on September 3, 2020, Dr. Moreno, in accordance with the authority vested in him by section 101080 of the California Health and Safety Code, declared a Local Health Emergency for the affected areas of the County of Monterey due to the Monterey County Fires; and,

WHEREAS, in accordance with the powers and duties of the local health officer vested by sections 101085 and 101310 of the California Health and Safety Code, Dr. Moreno has ordered that all assisting state agencies, in particular the State Department of Toxics Substance Control, Office of Emergencies Services, the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County Fire incidents; and,

WHEREAS, Dr. Moreno has further ordered that all persons are to heed the directions of emergency officials with regard to this emergency in order to protect their health and safety. This may include temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners; and

WHEREAS, the earliest meeting at which ratification of the Local Health Emergency could be scheduled for consideration by the Board of Supervisors was its regular meeting on September 15, 2020, which was beyond the seven-day requirement for ratification by the Board of Supervisors; and,

WHEREAS, accordingly, Dr. Moreno declared a second Local Health Emergency on September 10, 2020, with the same terms and provisions as his Local Health Emergency of September 3, 2020;

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for ratification on September 15, 2020 and at that meeting, the Board of Supervisors ratified the Local Health Emergency issued by the Health Officer; and

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for review on October 13, 2020 and at that meeting the Board of Supervisors continued the Local Health Emergency issued by the Health Officer; and

WHEREAS, emergency conditions continue to exist, necessitating review and continuation of the

Legistar File ID No. RES 20-191 Agenda Item No. 19

Local Health Emergency;

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of Supervisors in and for the County of Monterey as follows:

1. The above recitals are true and correct.

2. Conditions that threaten public health and safety as defined in sections 101075 and 101080 of the California Health and Safety Code continue to exist.

3. The Board of Supervisors continues the Local Health Emergency and orders issued pursuant thereto.

4. Pursuant to section 101080 of the California Health and Safety Code, the Board of Supervisors shall review the need for continuing the Local Health Emergency at least every 30 days and shall proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination.

PASSED AND ADOPTED on this 5<sup>th</sup> day of November 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez and Parker NOES: None ABSENT: Supervisor Adams (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting November 5, 2020.

Dated: November 5, 2020 File ID: RES 20-191 Agenda Item No.: 19 Valerie Ralph, Clerk of the Board of Supervisors County, of Monterey, State of California

Joel G. Pablo, Deputy

Legistar File ID No. RES 20-178 Agenda Item No. 24



## Monterey County Board of Supervisors

### **Board Order**

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor Jane Parker, seconded by Supervisor John M. Phillips to:

**Resolution No.: 20 - 332** Adopted Resolution No. 20 - 332 continuing the Local Health Emergency for the Monterey County Fires Incident.

PASSED AND ADOPTED on this 13<sup>th</sup> day of October 2020, by roll call vote:

AYES: Supervisors Phillips, Lopez, Parker and Adams NOES: None ABSENT: Supervisor Alejo (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting October 13, 2020.

Dated: October 13, 2020 File ID: RES 20-178 Agenda Item No.: 24 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Joel G. Pablo, Deputy

### Before the Board of Supervisors in and for the County of Monterey, State of California

**Resolution No. 20 - 332** Continuing the Proclamation of Local ) Health Emergency due to the Monterey ) County Fires Incidents.....)

### **RECITALS:**

WHEREAS, Section 101080 of the California Health and Safety Code empowers the County Health Officer to declare a Local Health Emergency if he or she reasonably determines that conditions of exposure to hazardous waste exist that pose an immediate threat to the public health, and requires the Local Health Emergency to expire after seven days unless ratified by the Board of Supervisors, and requires the Board of Supervisors to review the need for continuing the Local Health Emergency at least once every 30 days and proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination; and,

WHEREAS, the wildfire event known as the River Fire began on August 16, 2020, and destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, on August 17, 2020, the County Administrative Officer (CAO) proclaimed the existence of a local emergency because of the River Fire; and,

WHEREAS, the Board of Supervisors ratified the CAO proclamation on August 18, 2020, and further proclaimed a local emergency because of the wildfire known as the Carmel Fire that began on August 18, and that wildfire also destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, the wildfire known as the Dolan Fire began on August 19, 2020; and,

WHEREAS, on August 21, 2020, the CAO proclaimed the existence of a local emergency due to the Dolan Fire, and, as of that date, the fire had grown to almost 7,000 acres, destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species; and,

WHEREAS, on August 25, 2020, the Board of Supervisors ratified the CAO proclamation of a local emergency regarding the Dolan Fire; and,

WHEREAS, as of October 7, 2020, the River Fire burned over 48,000 acres, destroyed and damaged 43 homes, and is 100% contained, the Carmel Fire burned almost 6,700 acres, destroyed and damaged 80 homes, and is 100% contained, and the Dolan Fire burned over 124,924 acres, and is 100% contained; and,

WHEREAS in destroying private buildings, the River, Carmel and Dolan Fires (collectively, the "Monterey County Fires") have created an accumulation of ash debris, much of which has been determined to be contaminated with heavy metals and asbestos; and,

WHEREAS the circumstances of the accumulation of this contaminated debris as a result of the Monterey County Fires, by reason of the magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single local government and will require the combined forces of a mutual aid region or regions to abate; and,

WHEREAS, Dr. Edward Moreno is the Health Officer of the County of Monterey, and,

WHEREAS, under the provisions of section 101080 of the California Health and Safety Code, Dr. Moreno found that conditions that increase risk of exposure to hazardous waste and threaten the health and safety of the public exist in the areas burned by the Monterey County Fires; and,

WHEREAS, under the provisions of section 101085 of the California Health and Safety Code, Monterey County needs other political subdivisions and State agencies to provide mutual aid, including personnel, equipment and other available resources; and,

WHEREAS, on September 3, 2020, Dr. Moreno, in accordance with the authority vested in him by section 101080 of the California Health and Safety Code, proclaimed a Local Health Emergency for the affected areas of the County of Monterey due to the Monterey County Fires; and,

WHEREAS, in accordance with the powers and duties of the local health officer vested by sections 101085 and 101310 of the California Health and Safety Code, Dr. Moreno has ordered that all assisting state agencies, in particular the State Department of Toxics Substance Control, Office of Emergencies Services, the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County Fire incidents; and,

WHEREAS, Dr. Moreno has further ordered that all persons are to heed the directions of emergency officials with regard to this emergency in order to protect their health and safety. This may include temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners; and

WHEREAS, the earliest meeting at which ratification of the Local Health Emergency could be scheduled for consideration by the Board of Supervisors was its regular meeting on September 15, 2020, which was beyond the seven-day requirement for ratification by the Board of Supervisors; and,

WHEREAS, accordingly, Dr. Moreno declared a second Local Health Emergency on September 10, 2020, with the same terms and provisions as his Local Health Emergency of September 3, 2020;

WHEREAS, the Local Health Emergency was brought to the Board of Supervisors for ratification on September 15, 2020 and at that meeting, the Board of Supervisors ratified the Local Health Emergency issued by the Health Officer; and

WHEREAS, emergency conditions continue to exist, necessitating review and continuation of the Local Health Emergency;

Legistar File ID No. RES 20-178 Agenda Item No. 24 **NOW, THEREFORE, BE IT RESOLVED,** by the Board of Supervisors in and for the County of Monterey as follows:

1. The above recitals are true and correct.

2. Conditions that threaten public health and safety as defined in sections 101075 and 101080 of the California Health and Safety Code continue to exist.

3. The Board of Supervisors continues the Local Health Emergency and orders issued pursuant thereto.

4. Pursuant to section 101080 of the California Health and Safety Code, the Board of Supervisors shall review the need for continuing the Local Health Emergency at least every 30 days and shall proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination.

PASSED AND ADOPTED on this 13<sup>th</sup> day of October 2020, by roll call vote:

AYES: Supervisors Phillips, Lopez, Parker and Adams NOES: None ABSENT: Supervisor Alejo (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting October 13, 2020.

Dated: October 13, 2020 File ID: RES 20-178 Agenda Item No.: 24

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California Hel G. Pablo, Deputy

Legistar File ID No. RES 20-153 Agenda Item No. 22.1



## Monterey County Board of Supervisors

### **Board Order**

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor Jane Parker seconded by Supervisor John M. Phillips to approve Consent Calendar Item Number's 20 through 39 excluding Consent Item No. 19 which was continued for the requested information to another date to be determined.

### Resolution No.: 20 - 298

Ratify the Declaration of a Local Health Emergency for the Monterey County Fires Incident as Declared by Dr. Edward Moreno, Monterey County Health Officer. (ADDED VIA ADDENDA)

PASSED AND ADOPTED on this 15<sup>th</sup> day of September 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting September 15, 2020.

Dated: September 15, 2020 File ID: RES 20-153 Agenda Item No.: 22.1

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey State of California

Legistar File ID No. RES 20-153 Agenda Item No. 22.1 Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 20 - 298Ratifying the Proclamation by the Monterey)County Health Officer of a Local Health Emergency)due to the River, Carmel, and Dolan Wildfire Incidents.....)

### **RECITALS:**

WHEREAS, Section 101080 of the California Health and Safety Code empowers the County Health Officer to declare a local health emergency if he or she reasonably determines that conditions of exposure to hazardous waste exist that pose an immediate threat to the public health, such declaration to expire after seven days unless ratified by the Board of Supervisors and reviewed thereafter every fourteen days; and,

WHEREAS, the wildfire known as the River Fire began on August 16, 2020, and has destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuations and displacement of residents; road closures; areas of isolation; damage to property and utility systems; and damage to critical infrastructure and endangered species; and,

WHEREAS, on August 17, 2020, the County Administrative Officer proclaimed the existence of a local emergency because of the River Fire; and,

WHEREAS, the Board of Supervisors ratified the CAO's proclamation on August 18, 2020, and further proclaimed a local emergency because of the wildfire known as the Carmel Fire that began on August 18, and that has also destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuations and displacement of residents; road closures; areas of isolation; damage to property and utility systems; and damage to critical infrastructure and endangered species; and,

WHEREAS, the wildfire known as the Dolan Fire began on August 19, 2020; and,

WHEREAS, on August 21, 2020, the CAO proclaimed the existence of a local emergency due to the Dolan Fire, and, as of that date, the fire had grown to almost 7,000 acres, has destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuations and displacement of residents; road closures; areas of isolation; damage to property and utility systems; and damage to critical infrastructure and endangered species; and,

WHEREAS, on August 25, 2020, the Board of Supervisors ratified the CAO's proclamation of a local emergency regarding the Dolan Fire; and,

WHEREAS, as of September 9, 2020, the River Fire had burned over 48,000 acres and was 100% contained, the Carmel Fire had burned almost 6,700 acres and was 100% contained, and the Dolan Fire had burned over 36,000 acres, is still burning, and only at 40% containment; and,

WHEREAS the River, Carmel and Dolan fires (collectively, the "Monterey County fires") have destroyed hundreds of private buildings, resulting in accumulation of ash debris, much of which has been determined to be contaminated with heavy metals and/or asbestos; and,

WHEREAS the circumstances of the accumulation of this contaminated debris as a result of the Monterey County fires, by reason of the magnitude, are or are likely to be beyond the control of the services,

### Legistar File ID No. RES 20-153 Agenda Item No. 22.1

personnel, equipment and facilities of any single local government and will require the combined forces of a mutual aid region or regions to abate; and,

WHEREAS, Dr. Edward Moreno is the Health Officer of the County of Monterey, and,

WHEREAS, under the provisions of section 101080 of the California Health and Safety Code, Dr. Moreno found that conditions of exposure to hazardous waste and an immediate threat to the health and safety of the public exist in the areas burned by the Monterey County fires; and,

WHEREAS, under the provisions of section 101085 of the California Health and Safety Code, Monterey County needs other political subdivisions and State agencies to provide mutual aid, including personnel, equipment and other available resources; and,

WHEREAS, on September 3, 2020, Dr. Moreno, in accordance with the authority vested in him by section 101080 of the California Health and Safety Code, issued a Declaration of Local Health Emergency for the affected areas of the County of Monterey due to the Monterey County fires; and,

WHEREAS, in accordance with the powers and duties of the local health officer vested by sections 101085 and 101310 of the California Health and Safety Code, Dr. Moreno has ordered that all assisting state agencies, in particular the State Department of Toxics Substance Control, Office of Emergencies Services (OES), the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County fire incidents; and,

WHEREAS, the Dr. Moreno has further ordered that all persons are to heed the directions of emergency officials with regard to this emergency in order to protect their health and safety. This may include temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners; and

WHEREAS, Emergency conditions continue to exist, necessitating ratification and continuation of the Declaration of Local Health Emergency; and,

WHEREAS, the earliest meeting at which ratification of the Declaration of Local Health Emergency could be scheduled for consideration by the Board of Supervisors is its regular meeting on September 15, 2020, which is beyond the seven (7) day requirement for ratification by the Board of Supervisors; and,

WHEREAS, accordingly, Dr. Moreno issued a second proclamation of Local Health Emergency on September 10, 2020, with the same terms and provisions as his order of September 3, 2020;

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of Supervisors in and for the County of Monterey as follows:

- 1. The above recitals are true and correct.
- 2. The actions of the Health Officer of the County of Monterey in response to the local health emergency, including the Declaration of Local Health Emergency issued by the Health Officer and orders pursuant thereto, are hereby ratified by the Board of Supervisors of the County of Monterey.

Legistar File ID No. RES 20-153 Agenda Item No. 22.1

3. Pursuant to section 101080 of the California Health and Safety Code, the Board of Supervisors shall review the need for continuing the local health emergency at least once every 30 days and shall proclaim the termination of the local health emergency at the earliest possible date that conditions warrant the termination.

PASSED AND ADOPTED on this 15<sup>th</sup> day of September 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting September 15, 2020.

Dated: September 15, 2020 File ID: RES 20-153 Agenda Item No.: 22.1 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California Joel G. Pablo, Deputy



## COUNTY OF MONTEREY HEALTH DEPARTMENT

Elsa Jimenez, Director of Health

Administration Behavioral Health Clinic Services Emergency Medical Services Environmental Health/Animal Services

Public Health Public Administrator/Public Guardian

Nationally Accredited for Providing Quality Health Services

### A DECLARATION OF A LOCAL HEALTH EMERGENCY FOR THE MONTEREY COUNTY FIRES INCIDENT

WHEREAS commencing on August 16, 2020, the River, Dolan and Carmel wildfires swept through areas of unincorporated Monterey County (collectively, the "Monterey County Fires"), and have caused severe damage to areas within Monterey County, including but not limited to the Sierra De Salinas range, Carmel Valley and areas of Cachagua and Jamesburg, and Big Sur Ventana Wilderness; and

WHEREAS as of September 2, 2020, the Monterey County Fires have affected 148,337 acres, the River and Carmel Fires are contained, and the Dolan Fire continues to burn causing an ongoing threat to nearby residents and most of the County due to airborne fire products and contaminants; and

WHEREAS the Monterey County Fires have caused structural damage or destruction to hundreds of private buildings; and

WHEREAS the destruction of private buildings has resulted in the accumulation of ash debris, much of which has been determined to be contaminated with heavy metals and/or asbestos; and

WHEREAS the circumstances of the accumulation of this contaminated debris as a result of this wildfire, by reason of the magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single local government and will require the combined forces of a mutual aid region, regions and state to abate; and

WHEREAS I, Dr. Edward Moreno, am the Health Officer of the County of Monterey; and

WHEREAS under the provisions of section 101080 of the California Health and Safety Code, I find that conditions of exposure to hazardous waste and an immediate threat to the health and safety of the public exist in the areas burned by the Monterey County Fires; and

WHEREAS under the provisions of section 101085 of the California Health and Safety Code, Monterey County needs other political subdivisions and State agencies

to provide mutual aid, including personnel, equipment and other available resources; and

WHEREAS I issued a declaration of a local health emergency on September 3, 2020 to exist in the affected areas of the County of Monterey due to the Monterey County Fires and the declaration was not ratified by the Monterey County Board of Supervisors within 7 days of my declaration; and

WHEREAS the Board of Supervisors' next regular meeting is scheduled for September 15, 2020.

NOW, THEREFORE, I, Dr. Edward Moreno, in accordance with the authority vested in me by the Monterey County Board of Supervisors and statute, particularly California Health & Safety Code sections 101080 and 101085, HEREBY DECLARE A LOCAL HEALTH EMERGENCY to exist in the affected areas of the County of Monterey due to the Monterey County Fires.

IT IS HEREBY ORDERED, in accordance with the powers and duties of the local health officer vested by sections 101085 and 101310 of the California Health and Safety Code, that all assisting state agencies, in particular the State Department of Toxics Substance Control, Office of Emergencies Services, the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County Fires Incidents.

IT IS FURTHER HEREBY ORDERED that all persons are to heed the directions of emergency officials regarding this emergency in order to protect their health and safety. This may include temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners.

I FURTHER DIRECT that pursuant to California Health and Safety Code section 101080, the local health emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the Monterey County Board of Supervisors. If the declaration of a local health emergency has not been ratified within seven days by the Board of Supervisors, I may issue a new declaration of a local health emergency. If ratified by the Board of Supervisors, section 101080 requires the Board of Supervisors to review, at least every 30 days until the local health emergency is terminated, the need for continuing the local health emergency and shall proclaim the termination of the local health emergency at the earliest possible date that conditions warrant the termination. I FURTHER DIRECT that as soon as hereafter possible this declaration be filed with the Board of Supervisors and that widespread publicity and notice be given of this declaration.

IN WITNESS WHEREOF I have hereunto set my signature to be affixed this tenth day of September 2020.

Edward Moreno, MD, MPH Health Officer of the County of Monterey





Elsa Jimenez, Director of Health

Administration Behavioral Health Clinic Services Emergency Medical Services Environmental Health/Animal Services

Public Health Public Administrator/Public Guardian

Nationally Accredited for Providing Quality Health Services

### A DECLARATION OF A LOCAL HEALTH EMERGENCY FOR THE RIVER FIRE INCIDENT

WHEREAS commencing on August 16, 2020, the River, Dolan and Carmel wildfires swept through areas of unincorporated Monterey County (collectively, the "Monterey County Fires"), and have caused severe damage to areas within Monterey County, including but not limited to the Sierra De Salinas range, Carmel Valley and areas of Cachagua and Jamesburg, and Big Sur Ventana Wilderness; and

WHEREAS as of September 2, 2020, the Monterey County Fires have affected 86,000 acres, are still not contained, and continue to burn causing a threat to nearby residents and most of the County due to airborne fire products and contaminants; and

WHEREAS the Monterey County Fires have caused structural damage or destruction to hundreds of private buildings; and

WHEREAS the destruction of private buildings has resulted in the accumulation of ash debris, much of which has been determined to be contaminated with heavy metals and/or asbestos; and

WHEREAS the circumstances of the accumulation of this contaminated debris as a result of this wildfire, by reason of the magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single local government and will require the combined forces of a mutual aid region, regions and state to abate; and

WHEREAS I, Dr. Edward Moreno, am the Health Officer of the County of Monterey; and

WHEREAS under the provisions of section 101080 of the California Health and Safety Code, I find that conditions of exposure to hazardous waste and an immediate threat to the health and safety of the public exist in the areas burned by the Monterey County Fires; and

WHEREAS under the provisions of section 101085 of the California Health and Safety Code, Monterey County needs other political subdivisions and State agencies to provide mutual aid, including personnel, equipment and other available resources; and

WHEREAS the Board of Supervisors' next regular meetings are scheduled for September 15, 2020.

NOW, THEREFORE, I, Dr. Edward Moreno, Health Officer of the County of Monterey, in accordance with the authority vested in me by the Monterey County Board of Supervisors

and statute, particularly California Health & Safety Code sections 101080 and 101085, HEREBY DECLARE A LOCAL HEALTH EMERGENCY to exist in the affected areas of the County of Monterey due to the Monterey County Fires.

IT IS HEREBY ORDERED, in accordance with the powers and duties of the local health officer vested by sections 101085 and 101310 of the California Health and Safety Code, that all assisting state agencies, in particular the State Department of Toxics Substance Control, Office of Emergencies Services, the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County Fires Incidents.

IT IS FURTHER HEREBY ORDERED that all persons are to heed the directions of emergency officials regarding this emergency in order to protect their health and safety. This may include temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners.

I FURTHER DIRECT that pursuant to California Health and Safety Code section 101080, the local health emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the Monterey County Board of Supervisors. If the emergency has not been ratified within seven days by the Board of Supervisors, I may issue a new declaration of a local health emergency. If ratified by the Board of Supervisors, section 101080 requires the Board of Supervisors to review, at least every 30 days until the local health emergency is terminated, the need for continuing the local health emergency and shall proclaim the termination of the local health emergency at the earliest possible date that conditions warrant the termination.

I FURTHER DIRECT that as soon as hereafter possible this declaration be filed with the Board of Supervisors and that widespread publicity and notice be given of this declaration.

IN WITNESS WHEREOF I have hereunto set my signature to be affixed this third day of September 2020.

Edward Moreno, MD, MPH Health Officer of the County of Monterey



## **Monterey County**

**Board Report** 

Legistar File Number: A 21-049

Item No.22

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/19/2021

Version: 1

Current Status: Department of Social Services - Consent Matter Type: BoS Agreement

a. Approve and authorize the Director of the Department of Social Services to sign County Purchase MT-01-2020 with the California Statewide Automated Welfare Systems (CalSAWS) Project in the amount of \$296,235 to continue recurring Production Operations charges for central support of the Monterey County's Customer Service Center, Regional Contact Center (RCC) for Medi-Cal Referrals, and Lobby Management Tools: Facilitated Access Control Tables (FACTS) and Kiosks retroactively for the period of 11/1/20-9/30/2021;

b. Authorize the Director of the Department of Social Services to sign up to three (3) amendments to the County Purchase, where the total amendments do not exceed 10% of the original amount, and do not significantly change the terms of the County Purchase.

### **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

a. Approve and authorize the Director of the Department of Social Services to sign County Purchase MT-01-2020 with the California Statewide Automated Welfare Systems (CalSAWS) Project in the amount of \$296,235 to continue recurring Production Operations charges for central support of the Monterey County's Customer Service Center, Regional Contact Center (RCC) for Medi-Cal Referrals, and Lobby Management Tools: Facilitated Access Control Tables (FACTS) and Kiosks retroactively for the period of 11/1/20-9/30/2021;

b. Authorize the Director of the Department of Social Services to sign up to three (3) amendments to the County Purchase, where the total amendments do not exceed 10% of the original amount, and do not significantly change the terms of the County Purchase.

### SUMMARY/DISCUSSION:

Monterey County DSS entered a Memorandum of Understanding (MOU) in 2010 and amended in 2019, with the California Statewide Automated Welfare Systems (CalSAWS) for migration to the CalSAWS technology for the DSS Community Benefits Branch. This MOU allows counties to continue to request services from the Consortium. This Purchase Request provides DSS the ability to continue using existing infrastructure to provide benefits to County recipients.

The County Purchase MT-01-20 is being recommended by the Department to provide continued support of the technical infrastructure necessary to maintain the support of the Monterey County's Customer Service Center (CSC), Regional Contact Center (RCC) for Medi-Cal Referrals, and Facilitated Access Control Tables (FACTS) and Kiosks for the period of 11/1/20-9/30/2021. These customer resources are currently located in DSS Community Benefits lobbies and buildings. The

infrastructure listed provides the following support to both recipients and CWD employees:

- **County Contact Center** (Implemented August 2013) continues the Technology Deployment project that provides substantial benefits for both the customer and the CWD eligibility workers. These benefits include reducing the time to service recipients' questions and change requests and providing more visibility into the customer experience.
- Covered California (Medi-Cal) C-IV Contact Center (Implemented August 2013) continues the C-IV Covered California Contact Center model, allowing the County to provide a centralized service center that supports both Monterey and San Benito County receiving the warm handoff from Covered California for recipients applying for health insurance benefits.
- FACTs and KIOSKs (Implemented October 2016) are lobby management tools that provide self-service automated option such as registering for in-office appointments, image documents, and request Medi-Cal Identification Cards (BIC), etc. which results in a reduction of office time for recipients, decreasing the lobby lines and the time spent servicing customer questions/changes and providing more visibility into the customer experience.

### **OTHER AGENCY INVOLVEMENT:**

The Auditor-Controller and Contract/Purchasing have approved this County Purchase. County Counsel has approved as to form.

### FINANCING:

This agreement in the amount of \$296,235 is funded with Social Services federal and state revenues and realignment funds. There is sufficient appropriations and revenues in the amount of \$188,493 for Budget 001-5010-SOC005 are included in the FY2020-21 Adopted Budget and the remaining balance of \$107,741 will be incorporated in the upcoming budget development for FY 2021-22.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This proposed action correlates to the Administration and Infrastructure Strategic Initiative adopted by the Board of Supervisors by allowing the Department to provide support to DSS's technical infrastructure to maintain the Call Center and lobby management tools that supports both recipients and employees.

Mark a check to the related Board of Supervisors Strategic Initiatives

\_\_Economic Development X Administration \_\_Health & Human Services X Infrastructure Public Safety

Prepared by: Linora Ballesteros, Management Analyst, x7007

Approved by: Lori A. Medina, Director of Social Services, x4430

Attachments: CalSAWS 2019 M.O.U County Purchase MT-01-2020

Proposed agreement is on file with Clerk of the Board as an attachment to this Board Report



## **Monterey County**

**Board Report** 

Legistar File Number: A 21-049

March 02, 2021

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor

Salinas, CA 93901

Item No.

Introduced: 2/19/2021 Version: 1 Current Status: Agenda Ready Matter Type: BoS Agreement

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### **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

a. Approve and authorize the Director of the Department of Social Services to sign County Purchase MT-01-2020 with the California Statewide Automated Welfare Systems (CalSAWS) Project in the amount of \$296,235 to continue recurring Production Operations charges for central support of the Monterey County's Customer Service Center, Regional Contact Center (RCC) for Medi-Cal Referrals, and Lobby Management Tools: Facilitated Access Control Tables (FACTS) and Kiosks retroactively for the period of 11/1/20-9/30/2021; b. Authorize the Director of the Department of Social Services to sign up to three (3) amendments to the County Purchase, where the total amendments do not exceed 10% of the original amount, and do not significantly change the terms of the County Purchase.

### SUMMARY/DISCUSSION:

Monterey County DSS entered a Memorandum of Understanding (MOU) in 2010 and amended in 2019, with the California Statewide Automated Welfare Systems (CalSAWS) for migration to the CalSAWS technology for the DSS Community Benefits Branch. This MOU allows counties to continue to request services from the Consortium. This Purchase Request provides DSS the ability to continue using existing infrastructure to provide benefits to County recipients.

The County Purchase MT-01-20 is being recommended by the Department to provide continued support of the technical infrastructure necessary to maintain the support of the Monterey County's Customer Service Center (CSC), Regional Contact Center (RCC) for Medi-Cal Referrals, and Facilitated Access Control Tables (FACTS) and Kiosks for the period of 11/1/20-9/30/2021. These customer resources are currently located in DSS Community Benefits lobbies and buildings. The infrastructure listed provides the following support to both recipients and CWD employees.

**County Contact Center** (Implemented August 2013) continues the Technology Deployment project that provides substantial benefits for both the customer and the CWD eligibility workers. These benefits include reducing the time to service recipients' questions and change requests and providing more visibility into the customer experience.

**Covered California (Medi-Cal) C-IV Contact Center** (Implemented August 2013) continues the C-IV Covered California Contact Center model, allowing the County to provide a centralized service center that supports both Monterey and San Benito County receiving the warm handoff from Covered California for recipients applying for health insurance benefits. **FACTs and KIOSKs** (Implemented October 2016) are lobby management tools that provide self-service automated option such as registering for in-office appointments, image documents, and request Medi-Cal Identification Cards (BIC), etc. which results in a reduction of office time for recipients, decreasing the lobby lines and the time spent servicing customer questions/changes and providing more visibility into the customer experience.

### OTHER AGENCY INVOLVEMENT:

The Auditor-Controller and Contract/Purchasing have approved this County Purchase. County Counsel has approved as to form.

#### FINANCING:

This agreement in the amount of \$296,235 is funded with Social Services federal and state revenues and realignment funds. There is sufficient appropriations and revenues in the amount of \$188,493 for Budget 001-5010-SOC005 are included in the FY2020-21 Adopted Budget and the remaining balance of \$107,741 will be incorporated in the upcoming budget development for FY 2021-22.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This proposed action correlates to the Administration and Infrastructure Strategic Initiative adopted by the Board of Supervisors by allowing the Department to provide support to DSS's technical infrastructure to maintain the Call Center and lobby management tools that supports both recipients and employees.

Mark a check to the related Board of Supervisors Strategic Initiatives

Economic Development X Administration Health & Human Services X Infrastructure Public Safety

Prepared by: Linora Ballesteros, Management Analyst, x7007

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Approved by: Lori A. Medina, Director of Social Services, x4430

Attachments: C-IV 2010 M.O.U County Purchase MT-01-2020

Proposed agreement is on file with Clerk of the Board as an attachment to this Board Report

# CalSAWS Consortium, C-IV Project

## County Purchase MT-01-2020 Monterey County – Extension of Ongoing Production Operations

### I. Overview:

Pursuant to Section 6.11 of the Amended and Restated Revised System Agreement between California SAWS Consortium IV Joint Powers Authority ("Consortium") and Accenture LLP ("Contractor") and Proquire LLC, with an effective date of June 29, 2007 (as amended, the "Agreement"), Monterey County ("County") executed County Purchase MT-01-2012 in January 2013, MT-08-2014 in March 2015, and MT-01-2016 in May 2016 to migrate to the Contact Center business model for interacting with welfare clients (the "Contact Center Project"). Additionally, the County executed County Purchase MT-01-2013 in June 2013 to utilize C-IV Contact Center services to accept Medi-Cal referral calls from Covered California for the residents of the County and regional member county of San Benito ("Subscriber County"). The County also executed County Purchases MT-03-2015 in August 2015, MT-03-2016 in October 2016, and MT-01-2017 in April 2017, which included ongoing recurring Production Operations Charges for enhanced central support per Facilitated Access Control Tablet ("FACT"), remote maintenance per Kiosk, enhanced central support per Kiosk, and central support for the County's Managed workstation image.

This County Purchase, MT-01-2020, consists of an extension of ongoing recurring Production Operations Charges for enhanced central support per Managed FACT, remote maintenance per Managed FACT, remote maintenance per Managed Kiosk, enhanced central support per Managed Kiosk, central support for the County's Managed workstation image per Managed workstation, remote maintenance per Managed workstation, and central support for the County's Customer Service Center ("CSC") and Regional Contact Center ("RCC") workers commencing November 1, 2020 and continuing through the end of the Agreement, September 30, 2021. The scope of this County Purchase includes the following:

- Recurring Production Operations Charges
  - o Enhanced Central Support per Managed FACT
  - o Remote Maintenance per Managed FACT
  - o Remote Maintenance per Managed Kiosk
  - o Enhanced Central Support per Managed Kiosk
  - Central Support for Managed Workstation Image (per Managed Workstation)
  - o Remote Maintenance per Managed Agent workstation
  - Central Support per CSC Agent/Worker
  - Central Support per RCC Agent/Worker

### Assumptions:

- The Total Charges are an estimate and are subject to changes at the time of ordering. The final Charges will be provided to the Consortium at the time of invoicing. If the final invoiced Charges exceed the total amount of this County Purchase, an amendment to this County Purchase will be executed by the parties.
- Production Operations Charges will be invoiced in monthly arrears to the Consortium, who will then invoice the County.
- The County is responsible for monthly recurring Production Operations Charges for enhanced central support and remote maintenance per Managed FACT commencing November 1, 2020 and continuing through the end of the Agreement, September 30, 2021.
  - These monthly recurring operations charges will apply to the three (3) Managed FACTs in production.
    - Enhanced central support includes the following:
      - Service requests would be transferred directly to Level 3 support.
      - Process support would be provided to the County for changes or updates to the process flow on the FACTs following their deployment.
    - Enhanced central support excludes any enhancements to the C-IV custom applications for the FACTs.
- The County is responsible for monthly recurring Production Operations Charges for remote maintenance and enhanced central support per Managed Kiosk commencing November 1, 2020 and continuing through the end of the Agreement, September 30, 2021.
  - These monthly recurring operations charges will apply to the four (4) Managed Kiosks in production.
  - Enhanced central support includes the following:
    - Service requests would be transferred directly to Level 3 support.
    - Process support would be provided to the County for changes or updates to the process flow on the Kiosks following their deployment.
  - Enhanced central support excludes any enhancements to the C-IV custom applications for the Kiosks.
- The County is responsible for monthly recurring Production Operations Charges for central support for the County's Managed workstation image that is based on the Microsoft Windows 10 operating system.
  - These monthly recurring operations charges will apply to the 110 workstations in production commencing November 1, 2020 and continuing through the end of the Agreement, September 30, 2021.
  - If the County deploys additional Microsoft Windows 10 Enterprise Upgrade licenses for Managed workstations, additional monthly recurring Production Operations Charges for the County's Managed

Windows 10 image per workstation may apply. These additional charges would be provided to the County in a separate County Purchase.

- The County is responsible for monthly recurring Production Operations Charges for remote maintenance per Managed workstation commencing November 1, 2020 and continuing through the end of the Agreement, September 30, 2021.
  - These monthly recurring operations charges for remote maintenance are based on 107 Managed workstations in production.
- The County is responsible for monthly recurring Production Operations Charges for central support for the County's CSC and RCC workers commencing November 1, 2020 and continuing through the end of the Agreement, September 30, 2021.
  - Monthly recurring operations charges for central support of the County's CSC workers are based on eighty-two (82) named workers.
  - Monthly recurring operations charges for central support of the County's RCC workers are based on twenty-five (25) named workers.
  - Central support for the County's CSC and RCC workers includes support for requests related to Managed CSC and RCC hardware and software, including applying modifications to workers' user accounts for CSC and RCC software and applying software configurations for CSC and RCC worker staff changes.
  - Central support for the County's CSC and RCC workers also includes support for tasks associated with porting the C-IV System's existing central customer service center solution to the LRS/CalSAWS System. The following tasks will be performed as part of the effort to port the existing solution to the LRS/CalSAWS System:
    - Update IVR\_PERS table with BVP\_CODE columns and POS table with SYS\_ADMIN\_CODE column in the CalSAWS database;
    - Add C-IV interactive voice response ("IVR") aggregate tables to the CalSAWS database;
    - Update the PERS\_IDs associated with customer voice prints in the Nuance database to correspond with the updated PERS\_IDs in the CalSAWS database;
    - Migrate the on-premise voice biometrics services and visual IVR services to the Consortium's AWS Cloud to facilitate the move from the C-IV data centers;
    - Update the existing C-IV IVR batch jobs to run in the CalSAWS environment;
    - Convert and migrate the C-IV IVR data to the CalSAWS database;
    - Migrate the predictive handling algorithm to the CalSAWS application;
    - Migrate the IVR 100 and 101 Form generation functionality;

- Migrate the voice print delete button into the CalSAWS application;
- Update the predictive handling reporting in the call log table;
- Migrate the IVR inbound/outbound report to the CalSAWS application.
- This County Purchase does not include monthly recurring Production Operations Charges for WAN Administration for the County's CSC, as such charges will be funded by the Consortium, pending the availability of funds.
  - These monthly recurring Production Operations Charges related to the County's CSC are based on two (2) DS3 lines, one (1) MPLS T-1 line, and one (1) DSL backup line.
  - Contractor will monitor usage of these lines and discuss the addition of more lines with the County if necessary. Any additional lines would be provided to the County in a separate County Purchase.
- The Consortium migrated the C-IV central contact center solution from Cisco to Amazon Connect. This County Purchase does not include monthly recurring Production Operations Charges for WAN Administration for voice and telephony usage for the County's RCC, as such charges will be funded by the Consortium as part of the Consortium's transition to Amazon Connect.
  - Any changes to the deployment of Amazon Connect would result in Production Operations Charges for WAN Administration for toll free and long distance minutes for the contact center solution. These additional charges would be provided to the County in a separate County Purchase.
- The County must approve this County Purchase and provide the corresponding approved Advance Planning Document ("APD") by December 12, 2020. Otherwise, the estimates provided in this County Purchase will not be valid and a new County Purchase will be required.

# II. Schedule:

The Charges associated with this County Purchase will be incurred during State Fiscal Years ("SFYs") 2020/21 and 2021/22.

# III. Total Charges:

Total County Purchase Charges	SFY 20/21 11/20-5/21	SFY 21/22 5/21-9/21	Total Charges
Administrative Charges	\$0	\$0	\$0
Hardware and Software Charges	\$0	\$0	\$0
Hardware Charges	\$0	\$0	\$0
Hardware Maintenance and Support Charges	\$0	\$0	\$0
Software Charges	\$0	\$0	\$0
Software Maintenance and Support Charges	\$0	\$0	\$0
Production Operations Charges	\$188,493	\$107,741	\$296,235
One Time Charges	\$0	\$0	\$0
Recurring Charges	\$188,493	\$107,741	\$296,235
Total Charges	\$188,493	\$107,741	\$296,235

# COUNTY PURCHASE APPROVAL

## Subject: <u>County Purchase - MT-01-2020</u>

The subject document is accepted as allowing Accenture LLP to proceed with the subject County Purchase.

# Monterey County

By: \_\_\_\_\_

Printed Name:	 
Title:	

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

Notice Address: 1000 S. Main Street, Suite 306 Salinas, CA 93901

# **CalSAWS** Consortium

By: \_\_\_\_\_

Title:

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

Notice Address: CalSAWS Consortium 11290 Pyrites Way, Suite 150 Rancho Cordova, CA 95670-4481

Legistar File ID No. A 19-062 Agenda Item No. 17



# Monterey County Board of Supervisors

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066

## Agreement No.: A-14273, Amendment No.: 2

Upon motion of Supervisor Adams, seconded by Supervisor Lopez and carried by those members present, the Board of Supervisors hereby:

**Board Order** 

a. Approved and authorized the Chair of the Board of Supervisors to sign the Second Amended and Restated Joint Exercise of Powers Agreement with the Fourth Amended Bylaws, effective June 28, 2019 until terminated, with the California Automated Consortium Eligibility System; and
b. Approved and authorized the Chair of the Board of Supervisors to sign a governance Memorandum of Understanding, effective June 28, 2019 until terminated, with the California Automated Consortium Eligibility System.

PASSED AND ADOPTED on this 2<sup>nd</sup> day April of 2019, by the following vote, to wit:

AYES:Supervisors Phillips, Lopez, Parker and AdamsNOES:NoneABSENT:Supervisor Alejo

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting April 2, 2019.

Dated: April 3, 2019 File ID: A 19-062 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Julian Lorenzana, Deputy

## MEMORANDUM OF UNDERSTANDING BETWEEN THE CALSAWS CONSORTIUM AND THE COUNTY OF

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into by and between the CalSAWS Consortium ("Consortium"), a California Joint Powers Authority, and the County of \_\_\_\_\_\_ ("County"), a member county ("Member" or collectively with other members of the Consortium, "Members") of the Consortium (collectively, "the Parties").

# RECITALS

- I. WHEREAS, the Consortium was previously known as the California Statewide Automated Welfare System Consortium IV ("C-IV Consortium") with thirty-nine (39) county members (collectively, "39 Counties"); and
- II. WHEREAS, Los Angeles County joined the 39 Counties pursuant to the Amended and Restated Joint Exercise of Powers Agreement ("JPA Agreement"), with an effective date of September 1, 2017, pursuant to which the name of the Consortium was changed to the California Automated Consortium Eligibility System Consortium ("CalACES Consortium"); and
- III. WHEREAS, the C-IV Consortium previously entered into an agreement with a primary vendor ("C-IV Agreement") to provide the necessary equipment and services for an automated system ("C-IV System") utilized by the 39 Counties; and
- IV. WHEREAS, Los Angeles County previously entered into an agreement with a primary vendor ("LRS Agreement") to provide the necessary equipment and services for an automated system known as the Leader Replacement System ("LRS"); and
- V. WHEREAS, 18 counties ("WCDS Counties") previously entered into an agreement with a primary vendor ("CalWIN Agreement") to provide the necessary equipment and services for an automated system known as the CalWORKS Information Network and related systems ("CalWIN"); and
- VI. WHEREAS, the Centers for Medicare and Medicaid Services and the Food and Nutrition Services agencies of the United States Department of Agriculture directed California to move to a single statewide automated welfare system ("CalSAWS") by 2023. In moving toward that goal, the WCDS Counties and the CalACES Consortium have joined together to form the CalSAWS Consortium, pursuant to the JPA Agreement; and
- VII. WHEREAS, Los Angeles County will continue to use the LRS, the 39 Counties will continue to use the C-IV System, and the WCDS Counties will continue to use CalWIN until the migration of the Members to CalSAWS is complete; and

- VIII. WHEREAS, the purpose of this MOU is to delineate the areas of understanding and agreement among the Consortium and the Members regarding matters related to the administration and fulfillment of the Consortium's purpose; and
- IX. WHEREAS, this MOU is conditioned on the Consortium entering into the same MOU terms and conditions with all other Members, and supersedes all prior MOUs concerning the same subject matter contained herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

#### I. <u>DEFINITIONS</u>

As used in this MOU, the following words and terms shall have the meanings described below, unless otherwise defined elsewhere in this MOU:

**1.1.** "Advance Planning Document" (APD): A federally required document that is used by states to inform the federal agencies of their intentions related to federally funded programs, and request approval and funding to accomplish their needs and objectives. The term APD refers to a Planning APD, Implementation APD, or to an Advance Planning Document Update.

**1.2.** "Central Equipment": Is that equipment for which the Consortium is authorized by the State of California to assume responsibility for refresh. The Consortium shall have responsibility to refresh (replace or upgrade) all such equipment. All equipment not designated as "Local Equipment" is Central Equipment. The physical location of the equipment is not relevant to the designation "Central."

**1.3.** "Consortium – Auditor-Controller Agreement": Is any agreement, as may be revised from time to time, between the Consortium and one of its Members to fulfill the fiscal and audit function as Auditor-Controller for the Consortium.

**1.4. "Consortium Staff":** Consists of employees of the Consortium, employees of Members contributed to the Consortium, and contractors and agents designated by the Consortium.

**1.5.** "Consortium's Secretary": The Secretary of the Consortium's Board of Directors in charge of all records of the Consortium.

**1.6.** "Consortium's Treasurer": The treasurer of the Consortium shall be as specified in the JPA Agreement. The Consortium's Treasurer is responsible for the depository, disbursements, and accountability of all the accounts, funds, and money and all records relating thereto.

**1.7.** "Cost Allocation Plan": A methodology for distributing costs to benefiting programs in accordance with federal, state, and county sharing ratios.

**1.8. "County Personnel":** County employees, contractors or agents responsible for task(s) necessary to the Project.

**1.9.** "County-Purchased Software": Licenses to software applications purchased separately by County and installed upon Local Equipment. County-Purchased Software does not include Original Equipment Manufacturing (OEM) operating system software provided by the Consortium for use in the System(s), as defined below. All County-Purchased Software must be configured to be compatible with Consortium-purchased software and shall be approved by Consortium prior to its installation and use on Local Equipment purchased or provided under this MOU. Maintenance of County-Purchased Software and management of its use in a manner consistent with its licensing is the sole responsibility of County.

**1.10.** "County Site(s)": The location(s) in the County for the equipment, software, and Project Staff activities designated as necessary to the Project.

**1.11. "Data":** The Consortium and County records, files, forms, and other information that are currently or will be processed on the System(s).

**1.12.** "Deliverables": Products, including, but not limited to, equipment and software, provided to the Consortium and the County pursuant to agreements with vendors or otherwise necessary to the Project.

**1.13. "Executive Director":** The individual chosen by the Consortium with responsibilities for the management of the Project for the Consortium.

**1.14.** "Impaired Device(s)": Any equipment that is used by a Member on the System(s) and which has become, whether by damage or other reason, incapable of performing its intended purpose.

**1.15.** "Local Equipment": Is that equipment that (a) was obtained for the System's(s') use, (b) is located on County Sites, and (c) for which the Consortium is not authorized by the State of California to assume responsibility for refresh, replace or upgrade.

**1.16.** "Network(s)": The telecommunications lines, equipment, software, and services for transmitting Data and other information as required by the needs of the System(s).

**1.17.** "Original Equipment Manufacturing" or "OEM": Is that operating system software license that is provided with the workstation and laptop equipment, for which the right to use the license is vested with the owner of the applicable equipment.

**1.18.** "**Primary Project Vendor**": The vendor who is working or will be working on the System(s) pursuant to the applicable agreement(s), as approved by the Consortium.

**1.19.** "Primary Project Vendor Staff": Employees, contractors, and agents of the Primary Project Vendor dedicated to the Project who are working on the System(s).

**1.20.** "**Project**": Work related to the design, development, implementation, operation, maintenance of the System(s), and migration of the Members to CalSAWS, and the related activities of the Parties thereto.

**1.21. "Project Staff":** The Consortium Staff, County Personnel, and vendor staff performing task(s) necessary to the Project.

**1.22.** "Quality Assurance and Other Agreements": Those agreements between the Consortium and its quality assurance vendor(s) or other Project vendors to provide quality assurance, Project management, planning, support, verification, and validation services for the System(s).

**1.23. "Region":** County or Counties grouped together for purposes of representation as defined in the Consortium's Bylaws.

**1.24.** "Regional Manager(s)": The person(s) responsible for the day-to-day oversight of the Project in a particular Region.

**1.25.** "Separate Services": Services which are related to the System(s), obtained by Counties from the Primary Project Vendor, or other Project vendors.

**1.26.** "Software": Software and software licenses purchased by the Consortium for the System's(s') use, and software and software licenses procured under Section 4.2 (County Hardware and Software License Purchases). The Consortium retains possession of and title for, and responsibility for refresh of, all Software licensing agreements purchased by the Consortium but may grant use permission to Member in a manner consistent with this MOU.

**1.27.** "System(s)": Individually or collectively, the complete collection of equipment, Software, other required software, and Networks for the C-IV System, LRS, CalWIN and/or CalSAWS.

**1.28.** "Work Plan(s)": The plan and delineation of tasks, subtasks, activities and events to be performed, Deliverables to be produced and associated resource requirements with regard to the Project as accepted and agreed upon between the Primary Project Vendor and the Consortium, subject to modification from time to time.

# II. COUNTY

**2.1.** <u>Dedication of Personnel</u>. The County, within its sole discretion, agrees to undertake best efforts to provide County Personnel to the Project as required by the Project's needs, applicable Work Plan(s) or as otherwise necessary to fulfill the Consortium's purpose. County Personnel provided to the Project or the Consortium under this provision will be provided subject to the following terms and conditions:

**2.1.1.** The rendition of the services performed by County Personnel, the standards of performance, the discipline of its employees, and other matters incident to the performance of such services and the control of County Personnel so engaged in these services shall remain with the County. The County and the Consortium shall agree to the scope of services to be performed by each County Personnel.

**2.1.2.** The County will be responsible for all payroll, personnel, and other administrative functions for its employees assigned to perform services for the Consortium hereunder.

**2.1.3.** At the start of the Consortium assignment, the County, or the Consortium, with consent from the County, will provide functional supervision of County Personnel assigned, specify their duties, establish working hours, and other matters incidental to the supervision of the County Personnel.

**2.1.4.** In the event of a dispute between the County and the Consortium as to the extent of the duties and functions to be rendered hereunder, or the minimum level or manner of performance of such service, the Consortium shall be consulted and a mutual determination thereof shall be made by both the County and the Consortium. However, the County, in an unresolved dispute, shall have final and conclusive determination as between the Parties hereto.

**2.1.5.** For and in consideration of the services to be performed by the County Personnel for the Consortium under this MOU, the Consortium shall pay the County for said services according to the hourly prevailing direct salary and employee benefit costs as determined by the County for the current applicable fiscal year. Annual rate adjustments shall be made pursuant to methods employed according to the policies and procedures established by the County.

**2.1.6.** The County shall render to the Consortium a summarized monthly invoice which details all services performed under this MOU, and the Consortium shall pay the County within sixty (60) days after date of said invoice.

**2.1.7.** Payment for said services shall be made by check or money order payable as directed on the monthly invoice, or other method as determined by the County.

**2.1.8.** If such payment is not delivered to the County office that is described on said invoice within sixty (60) days after the date of the invoice, the invoice will be deemed uncollectible and may be forwarded for appropriate action.

**2.1.9.** Both Parties hereto in the performance of this Agreement shall act as independent contractors and not as agents, employees, partners, joint venturers, or associates of one another.

**2.1.10.** The Consortium shall not assume any liability for the direct payment of any salaries, wages, retirement benefits, workers' compensation insurance, or other compensation to any County Personnel performing services hereunder.

**2.1.11.** County and Consortium agree to be liable for the negligence and willful misconduct of its employees, agents, and contractors as set forth in Section 6.03. (Member's Liability for Negligence of its Employees and Contractors) of the JPA Agreement.

**2.1.12.** Notwithstanding any provision hereof to the contrary, the County or the Consortium may return County Personnel back to County for any reason upon notice in writing to the other party of not less than sixty (60) days prior thereto, unless the Parties agree otherwise.

2.2. <u>Access to County Site(s) and Facilities</u>. County agrees to make available and provide access to County Sites and facilities to Project Staff as necessary for the operation and administration of the System(s) in accordance with the County's administrative and security rules and regulations. County reserves the right to refuse the Consortium Staff or Project Staff member access to County Site(s) or facilities where, in its sole discretion, the County determines that access should be refused or terminated for reasons of public health, welfare, and safety or to avoid disruptions to County operations.

2.3. <u>Release of Information to Auditor/Controller</u>. The County acknowledges that the Consortium - Auditor/Controller Agreement sets forth certain procedures for the disclosure of records of the County to the Auditor/Controller and the Executive Director as the Auditor/Controller deems necessary to resolve any funding, invoice, records, accounting or audit-related issues, to the extent allowed by law. Therefore, the County agrees to use commercially reasonable efforts to comply with these procedures and, further, shall cooperate with the Consortium and Auditor/Controller in complying with any changes or modifications of these procedures, as may be necessary from time to time.

#### III. <u>CONSORTIUM</u>

**3.1.** <u>Compliance with County Rules</u>. The Consortium agrees that all Project or other Consortium activities occurring at County Site(s) or facilities will occur in a manner consistent with the County's rules and regulations.

**3.2.** <u>**Risk of Loss for Deliverables**</u>. Until accepted by County under the procedures established by the Parties pursuant to Section 4.4 (Development of Procedures for Acceptance/Rejection of Deliverables) herein, Consortium agrees that any risk of loss or damage for the Deliverables shall be borne solely by the Consortium.

**3.3.** <u>Liability to County</u>. The Consortium agrees to be liable for any loss, destruction, or damage caused by the Consortium to County operation or property by Consortium. Upon such loss, destruction of, or damage, the County shall notify the Executive Director and shall take all reasonable steps to protect against further loss, destruction, or damage caused by Consortium.

**3.4.** <u>Minimize Project Impact on County's Operations</u>. The Consortium agrees to ensure that Project activities at County Site(s) and facilities shall be done in a manner that will minimize interference with the normal activities and operations of the Member and shall keep County Site(s) and facilities safe, clean, and orderly at all times.

Right to Use System(s) Information and Data. The Consortium agrees 3.5. that the County shall have unlimited rights to use, disclose, duplicate, or publish all System(s) information and Data relating to County that is developed, derived, documented, or furnished by Consortium, upon notification by County to the Executive Director as to the reason for such use of said System(s) information and Data. Such Data shall include all results, technical information, and materials developed for and/or obtained by Consortium and retained to fulfill its purpose, including, but not limited to. all reports, surveys, plans, charts recordings (video and/or sound), pictures, drawings, analysis, source and object code, graphic representations, computer programs and printouts, notes and memoranda, and documents whether finished or unfinished, which result from or are prepared in connection with the Project, but only as it relates to the County or is Data that is meant for distribution to, or for access by, all Members of the Consortium. To the extent that County requires access to System(s) information and Data relating to another Member(s) of the Consortium, County shall seek permission from such Member(s) and shall enter into all appropriate confidentiality and non-disclosure agreements, if required, and comply with all confidentiality and security requirements of such Member(s). The County's use of Consortium information and Data shall not apply, and the County shall have no right, to title and interest in or to any Consortium's vendor's confidential and proprietary information.

**3.6.** <u>Cooperation with County Risk Management Assessment</u>. The Consortium agrees to cooperate and share its records and information with the County as necessary for the County to conduct an adequate risk of liability assessment(s) and develop an appropriate risk of liability management plan(s) as to Project activities occurring at County Sites and facilities or otherwise in connection with the County's participation in the Consortium.

# IV. MUTUAL RESPONSIBILITIES

# 4.1. Fiscal Responsibilities and Claiming.

**4.1.1.** The Consortium's Auditor-Controller shall act as the fiscal agent for the Consortium and perform accounts payable functions that relate to vendor billings and overall Project costs, including Separate Services and hardware and/or Software purchased by the County. The Consortium will invoice the County as agreed for the specific costs incurred in accordance herewith. At a minimum, invoicing will be quarterly, except by mutual agreement.

**4.1.2.** Unless otherwise agreed upon by the Consortium Executive Director or designee, the County will be responsible for the costs of hardware, and/or Software and associated maintenance for new County Sites or the expansion of existing County

Sites, changes in County network models, refresh of existing hardware and/or Software (as deemed necessary by the County), Separate Services requested by the County and other changes the County deems necessary. The County will prepare and submit APDs to the State for approval of these items, except as otherwise agreed upon by the Consortium, as above, subject to oversight by the Office of System Integration (OSI) or applicable State APD department.

**4.1.3.** The Consortium will allocate the Project budget to each Member and each of the Counties will be required to pay its applicable share of budget, in accordance with Section 4.1.4 hereof and Section 5.02 (Statewide Automated Welfare System Funding Allocations) of the JPA Agreement, at the time and in the manner specified by the Consortium. Such County Project costs will be paid to the Consortium or State as directed by the Consortium. The Consortium will continue to evaluate total Consortium expenditures and budget variances. The annual budget requests and updates will be prepared by the Consortium along with County Personnel.

**4.1.4.** Administrative Costs (also known as unfunded costs) are costs properly incurred by the Consortium but designated by the State of California as ineligible for reimbursement to the Consortium by the State, including the County's share as determined by the appropriate Cost Allocation Plan to be applied to that cost as approved by the State. On or before April 1 of each year, the Consortium, with the concurrence of the Consortium's Member representatives as defined in Section 2.07 (Quorum; Required Votes; Approvals) of the JPA Agreement, will approve a schedule of Administrative Costs for the upcoming fiscal year (July 1 through June 30). The Consortium will give the County notice of the approved schedule within ten (10) days after such approval.

A. County hereby agrees to contribute to the Consortium its share of Administrative Costs, as determined by the Consortium, in advance pursuant to California Government Code section 6504.

B. County shall also contribute an amount equal to any penalties, fines, finance charges, interest or other costs that may result in the event County's tardy payment(s) result in insufficient funds to pay the Consortium's expenses when due.

**4.1.5.** If, during the term of this MOU, the County is unable to appropriate sufficient funds, or is otherwise unable to meet its financial obligations under this MOU, and there are no other legal procedures or available funds by or with which such obligations can be met, County shall have the right to terminate this MOU and withdraw its membership from the Consortium effective as of the end of that fiscal year by adoption of a resolution of withdrawal by County's Board of Supervisors, provided that a copy of said resolution has been served on all other Members by May 31 of that fiscal year, as provided for in Section 2.11 (Withdrawal of Member) of the JPA Agreement. Withdrawal under this subsection shall not relieve the County of any financial obligations or liabilities arising prior to the effective date of the withdrawal.

**4.1.6.** Section 17.1.1 of the "Amended and Restated Agreement for a California Statewide Automated Welfare System" between the Consortium and Accenture LLP provides as follows:

17.1.1 Consortium Member Demand for Indemnification

CONTRACTOR's obligation to indemnify CONSORTIUM Members shall only be exercised through the CONSORTIUM and upon written demand by the CONSORTIUM. Any demand for indemnification by a CONSORTIUM Member shall be tendered to the CONSORTIUM, which shall have the authority to make the demand for indemnification to CONTRACTOR. The obligation on CONSORTIUM Members to submit demands for indemnification to the CONSORTIUM rather than directly to the CONTRACTOR shall not apply to L A COUNTY so long as L A COUNTY remains the sole county utilizing the LRS System in actual production. Once a second county migrates into the LRS System and from that point forward, all indemnification claims must go through the CONSORTIUM.

County claims covered by this provision shall be referred to the Consortium's Executive Director for action in accordance with this provision. The Consortium will be entering into other vendor contracts on behalf of the Member counties and anticipates including comparable language in some or all of those contracts. County claims arising under those other contracts shall also be referred to the Consortium's Executive Director for action in accordance with the requirements set forth in those contracts.

## 4.2. <u>County Hardware and Software License Purchases</u>.

**4.2.1.** This section pertains to County hardware and software purchases initiated by the County, that enable the County to acquire Local Equipment and/or Software through the Consortium and to contribute to the cost of Central Equipment needed for County use. Any applicable terms, conditions, and limitations of any agreements that provide for such purchases shall remain applicable.

**4.2.2.** Unless otherwise agreed by the Executive Director or designee, the County will prepare and submit to the Consortium a change order to request a cost estimate for hardware and/or Software licenses and associated maintenance. This request will identify the number of units of hardware and/or Software licenses anticipated for each County Site. The request will specify any special needs or considerations for the items requested. These special needs may include, but are not limited to, monitor sizes, configurations, ergonomics, specialized software, or color printers. The request will also identify whether the County will install all, some, or none of the items requested and whether the County will provide any ongoing technical support that may be necessary.

**4.2.3.** Upon receiving a change order request from the County for hardware and/or Software licenses, the Consortium will forward the change order to the Primary Project Vendor for a cost estimate that will be provided in accordance with the procedures in the Consortium agreements with the Primary Project Vendor, including estimates with all appropriate costs for the items specified in the request as well as all other hardware and/or Software licenses and hardware maintenance that is necessary

to ensure compliance with Consortium specifications. Such other hardware may include, but is not limited to, network and Central Equipment, such as switches, routers, and servers. The Consortium Staff will forward the estimate to the appropriate County Staff following receipt of the estimate from the Primary Project Vendor Staff.

**4.2.4.** Once the applicable APD is approved, the County will be responsible for providing written approval, from the State, of the cost estimate to the Consortium. The Consortium will not take any steps to authorize the procurement of the hardware and/or Software licenses until such written authorization is provided. Any increases in the cost estimate must also be approved in writing by the County.

**4.2.5.** The Consortium Staff will authorize the purchase of the hardware and/or Software licenses after approval of the cost estimate from the Member. The Project Staff will ensure that the requested items are ordered in a timely manner and in compliance with the approved cost estimate.

4.2.6. All Local Equipment and hardware procured under this MOU will become County property unless otherwise agreed to by the Executive Director or designee and County. All software licenses which are purchased by Consortium for use with the System(s) shall be retained by the Consortium and County will be granted permission to use the software pursuant to such licenses, unless otherwise agreed to by the Executive Director or designee and County. County shall be responsible to Consortium for costs associated with acquisition of Software licenses required for County use which are purchased through the Consortium. The County will track and manage property in accordance with mutually agreed upon inventory and accounting practices and procedures identified in the System Operations and Support Plan ("SOSP"). If County and Consortium are unable to agree upon inventory and accounting practices and procedures, County shall track and manage property in accordance with its inventory and accounting practices and procedures. The Consortium shall provide operational support of all hardware in accordance with Consortium procedures and the County network model, unless otherwise agreed to by the Executive Director or designee and Member.

**4.2.7.** The County will be responsible for the installation of all electrical and Data cabling to support any necessary additional hardware at the County Site(s) unless otherwise agreed to by the Executive Director or designee. Electrical cabling will be installed in compliance with the County's current practices for such installations. Data cabling will be installed and tested per the standards identified in the SOSP. Data cabling test results will be provided to the Consortium for its review.

**4.2.8.** The County will be responsible for the costs associated with the ordering and installation of Data circuits between the local County Site(s) and the applicable Data centers, unless otherwise agreed to by the Executive Director or designee. The County will work with Primary Project Vendor Staff to ensure that the Data circuit is of appropriate bandwidth in accordance with Consortium specifications.

**4.2.9.** Following the receipt, installation, and acceptance of the hardware and/or Software licenses, the County will transfer to the Consortium an amount sufficient to satisfy the Consortium's actual expenditures for the hardware and/or Software licenses based on invoice documentation provided by the Consortium.

#### 4.3. <u>Separate Services.</u>

**4.3.1.** The County may, at its sole discretion, prepare and submit to the Consortium a change order to request Separate Services to be performed by the Primary Project Vendor or other Project vendors. This request will identify the type(s) of Separate Services sought for each County Site and specify any special needs or considerations for the requested Separate Services. The Consortium, upon receiving a change order request, will forward the change order to the Primary Project Vendor or other Project vendors for a cost estimate, including estimates with all appropriate costs for the services specified in the request. The Consortium will also ensure that such services are appropriately related to the System(s). Any applicable terms, conditions, and limitations of any agreements that provide for such services shall remain applicable.

**4.3.2.** The County and the Consortium will ensure that such Separate Services are performed in a timely manner and in compliance with the cost estimate provided by the Primary Project Vendor or other Project vendors. The County will communicate with the Consortium regarding the progress of the Separate Services and any issues that may affect the Consortium or the System(s).

**4.4.** <u>Development of Procedures for Acceptance/Rejection of Deliverables</u>. The Parties agree to develop and implement procedures for the timely acceptance or rejection of Deliverables that may need to be reviewed by Member as necessary for the Project.

**4.5.** <u>Ownership of Accepted Deliverables</u>. The Parties agree that all rights, titles, and interests to Deliverables accepted by County pursuant to the procedures developed as called for under Section 4.4 (Development of Procedures for Acceptance/Rejection of Deliverables) shall not pass to County except as defined by this MOU or further agreed to in writing.

**4.6.** <u>Sharing of Business Records</u>. Notwithstanding Section 4.1 (Fiscal Responsibilities and Claiming), to ensure financial accountability of the Consortium and County the Parties agree to cooperate in the disclosure to the other Members of all business records (including, but not limited to, certified copies of records of all accounts, funds, and monies for the Project) except to the extent limited, restricted, or prohibited by law or applicable privilege.

**4.7.** <u>Access to Books and Records by Regulatory Agencies</u>. The Parties agree to maintain and make available for inspection sufficient records, files, and documentation that are not otherwise limited/restricted/prohibited by law or applicable

privilege, necessary in the case of audit by the State or federal agency, or other regulatory agency.

**4.8.** <u>**Dispute Resolution**</u>. The Parties agree that the resolution of any dispute between them related to Consortium business, whatsoever, shall be sought through the following procedures:

**4.8.1.** The Parties shall use their reasonable best efforts to resolve disputes arising in the normal course of business at the lowest organizational level between the Party's staff with appropriate authority to resolve the disputes. When a dispute arises between the Consortium and the County that cannot be resolved in the normal course of business, the Executive Director and County Director will work in good faith to resolve the dispute. If the Executive Director and the County Director cannot resolve the disputed issue(s) within five (5) business days, the matter shall be escalated to the Board of Directors of the Consortium for resolution.

**4.9.** <u>No Alteration of JPA Agreement</u>. The Parties agree that entering into this MOU or performing as provided hereunder shall not in any way change the obligations, rights or authority of the Parties as set forth in the JPA Agreement establishing the Consortium between the counties. Should any provision of this MOU conflict with any provision of the JPA Agreement, the provision of the JPA Agreement shall prevail.

# 4.10. <u>Transfer of Impaired Devices</u>.

# 4.10.1. <u>Transfer of Impaired Devices</u>.

A. <u>Transfer of Impaired Devices</u>. County conveys, assigns, and transfers to Consortium, and Consortium hereby accepts from County, all rights, titles, and interests of County in and to all of the Impaired Devices on the terms and conditions set forth herein. County is responsible for removing all County-Purchased Software and Data prior to the transfer of an Impaired Device to the Consortium, to the extent possible. County hereby authorizes Consortium to remove any and all County-Purchased Software and Data if County is unable to remove prior to transfer.

B. <u>Liability for Impaired Devices</u>. Consortium shall be responsible for any liabilities or obligations associated with or related to the Impaired Devices that occur after the Impaired Device transfer date.

#### 4.10.2. Transfer Events.

A. <u>County to Consortium</u>. The transfer of each Impaired Device from County to Consortium shall be effective on an ongoing basis, when Consortium and County execute an equipment transfer.

# 4.10.3. Disclaimers of Representations and Warranties.

A. <u>County</u>. COUNTY IS TRANSFERRING, ASSIGNING, AND CONVEYING THE IMPAIRED DEVICES ON AN "AS IS" BASIS TO CONSORTIUM. COUNTY MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, REGARDING THE IMPAIRED DEVICES AND EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE FOR THE IMPAIRED DEVICES, AS WELL AS ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE. COUNTY DOES NOT REPRESENT OR WARRANT THAT THE IMPAIRED DEVICES WILL MEET CONSORTIUM'S REQUIREMENTS, OR THAT THE IMPAIRED DEVICES WILL BE FREE FROM DEFECTS, DEFICIENCIES, PROBLEMS OR ERRORS.

THIS DISCLAIMER IS NOT INTENDED TO VOID ANY WARRANTIES THAT MAY BE AVAILABLE FROM THE MANUFACTURER OR SELLER OF THE IMPAIRED DEVICES, WHICH SHALL PASS TO THE CONSORTIUM AS APPROPRIATE.

B. <u>Manufacturers' Warranties</u>. The disclaimers in Section 4.10.3, above, notwithstanding each party assigns to the other party all of the manufacturer's warranties and indemnities relating to the Impaired Devices transferred pursuant to the provisions set forth herein. Such assignment shall take effect upon the applicable transfer date and is subject to all of the terms and conditions imposed by the manufacturers.

## 4.10.4. Limitations of Liability and Exclusive Remedies.

A. <u>Limitations and Disclaimers of Liability</u>. In no event shall County, Consortium, the Members comprising Consortium, or their contractors, agents, officers, directors, or employees be liable for any losses, expenses, claims or damages of any kind or nature including, but not limited to, direct, indirect, consequential, special or incidental damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business opportunity, loss of business information, or other pecuniary loss) arising out of the use or inability to use the Impaired Devices, any breach of this property transfer by either party, or any other matter hereunder, even if a party has been advised of the possibility of such damages.

The waiver stated above only relates to matters covered by Section 10.4 (Transfer of Impaired Devices) and extends to any rights such person or entity may have under California Civil Code section 1542 (and other similar statutes and regulations). Section 1542 states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR. B. <u>Exclusive Remedy of Consortium</u>. Consortium acknowledges that County is providing the Impaired Devices as required under applicable state policy and Consortium agrees that Consortium's sole and exclusive remedy for any inability to use an Impaired Device or any other matter under this property transfer shall be that Consortium shall pursue any remedy that has been transferred or assigned by County from the Impaired Device's manufacturer.

# 4.10.5. <u>Responsibility for Software Licenses</u>.

A. <u>County</u>. County is responsible for removing all County-Purchased Software prior to the transfer of an Impaired Device to the Consortium, to the extent possible. County hereby appoints Consortium as County's agent for the sole purpose of removing any County-Purchased Software contained on any and all Impaired Devices County transfers to Consortium, if County is unable to remove prior to transfer.

Subject to the provisions of Section 4.2.6 herein, County shall retain all rights and obligations associated with any license to County-Purchased Software contained on any and all Impaired Devices that County transfers to Consortium.

B. <u>Consortium</u>. Consortium shall, acting as agent of the County, remove any and all County-Purchased Software from Impaired Devices that Consortium receives from County, if County is unable to remove prior to transfer. Consortium shall not acquire any rights or obligations associated with any license to County-Purchased Software contained on any and all Impaired Devices that Consortium receives from County.

**4.10.6.** <u>Expenses</u>. Each party shall pay its own expenses and fees incidental to the preparation and execution of this property transfer and the obtaining of necessary approvals thereof, including fees and expenses of its counsel, accountants, and other experts.

# V. TERM/TERMINATION/MODIFICATIONS

**5.1** <u>Term</u>. This MOU shall commence on June 28, 2019 ("Effective Date") and shall remain in effect so long as the Member is a member of the Consortium, unless terminated as specified herein.

**5.2** <u>Condition Precedent--State and Federal Funding</u>. The Parties agree that their respective obligations under this MOU are contingent upon state and federal financial participation in the Project and the Consortium. In the event that such funds are not forthcoming for any reason, either Party shall notify the other and shall have the right to terminate this MOU.

**5.3** <u>Termination of Consortium or County's Consortium Membership</u>. This MOU shall immediately terminate upon the termination of the Consortium's Joint Powers Authority or County's membership in the Consortium's Joint Powers Authority.

**5.4** <u>Debts and Liabilities Upon Termination</u>. Should this MOU terminate as provided herein, the debts, liabilities, and/or obligations of the Consortium shall remain those of the Consortium.

**5.5** <u>Entire Agreement/Amendments</u>. This MOU constitutes the entire MOU between the Parties hereto with respect to the subject matter hereof and all prior or contemporaneous MOUs or other agreements of any kind or nature relating to the same shall be deemed merged herein. Except as provided herein, any modifications to, or termination of, this MOU must be in writing and signed by the Parties.

# VI. MISCELLANEOUS PROVISIONS

**6.1** <u>Notices</u>. Written notices provided hereunder shall be sufficiently addressed to the offices listed below and shall be deemed given upon deposit in the U.S. mail, first class, postage prepaid.

# SIGNATURES ON FOLLOWING PAGES

2019 Dated:

Consortium:

CalSAWS Consortium

By: immerman, Chair Barr Board of Directors

Dated:\_\_\_ MAR 2 6 2019

County:

County of Alameda By:

Richard Valle, President Board of Supervisors

<u>Approved As to Form</u> Donna R. Ziegler, County Counsel

By:

Victoria Wu Assistant County Counsel

Melissa Jugan Deputy Attest:

Dated: 6/28/2019

# Consortium:

CalSAWS Consortium

By: Barry Zimmerman , Chair Board of Directors

#### County:

Dated:

County of Alpine

By:

David Griffith, Chair Board of Supervisors

Approved As to Form Alpine County Counsel By:

Margaret Long County Counsel

Attest:

Teóla Tremayne, County Clerk and ex-officio Clerk of the Board

Dated: 428/2019

Consortium:

CalSAWS Consortium

By: nmerman\_, Chair Ba Board of Directors

Dated: 2-26-19

County:

County of Amador

By: Brian Oneto, Chair

Board of Supervisors

Approved As to Form Amador County Counsel

By:

Gregory Gillott

(Title

Attest: Shar

Dated:

Consortium:

CalSAWS Consortium

By: Zimmerman, Chair Barry Board of Directors

County:

County of Butte

Bv:

Steve Lambert, Chair Board of Supervisors

Approved As to Form Butte County Counse By: Bruce Alpert

**County Counsel** 

Attest:

Reviewed For Contract Policy Compliance General Services Contracts Division D. Heath 4/3/2D19

Dated: \_\_\_\_

Dated: 4/28/2019

# Consortium:

CalSAWS Consortium

By: Dany 2 Barry Zimmerman , Chair Board of Directors

Dated: 4 9 2019

## County:

County of Calaveras

By: John "Jach" Garamendi Michael Oliveria, Chair-Board of Supervisors

Approved As to Form Calaveras County Counsel

By: Sarah DeKav

(Title)

Attest: RIPM

C19-059

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding (MOU) to be executed and attested by their proper officers thereunto duly authorized, and their official seal to be affixed, as of the day and year written.

Dated: 4282019

# Consortium:

By:

CalSAWS Consortium

By: Samph S Barry Zimmerman, Chair Board of Directors

Dated: 4/16/19

County: County of Colusa

> Ker<mark>it S. Bo</mark>es, Chair Board of Supervisors

Approved As to Form

Colusa County Counsel

By:

Jennifer Sutton, Senior Deputy County Counsel

Attest:Wendy G. Tyler, Clerk to the Board of Supervisors

Patricia Rodriguez, Deputy Clerk

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

By: Barry 2 Barry Zimmerman, Chair Board of Directors

Dated

County:

County of Contra Costa By: NA, Chair

Board of Supervisors

Approved As to Form Contra Costa County Counsel

By: ( Hannah Shafsky nsel COX (Title)

Attest

Dated: \_0/281

## Consortium:

CalSAWS Consortium

By: <u>Barry Zimmerman</u>, Chair Board of Directors

County:

County of Del Norte

By:

Lori L. Cowan, Chair Board of Supervisors

Approved As to Form Del Norte County Counsel

By:

Elizabeth Cable County Counsel

Attest:

Kylié Goughnour Clerk of the Board of Supervisors

Dated: <u>3/26/19</u>

#### Consortium:

CalSAWS Consortium

Dated:

By: Sang 2

Barry Zimmerman, Chair Board of Directors

County:

County of El Dorado

Dated: 4/36/19

By:

Sue Novasel, Chair Board of Supervisors

Approved As to Form El Dorado County Counsel

Dated: 3/21/19

By: David Livingston

Interim County Counsel

Attest: James S. Mitrisin Clerk of the Board of Supervisors

Dated: 4/30/19

Kyra Schaufferley Deputy Clark By:\_\_\_

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

By: Barry Zimmerman , Chair Board of Directors

County:

Dated: March 12 2019

County of Fresno

By:

Nathan Magsig, Chairman of the Board of Supervisors of the County of Fresno

Approved as to Legal Form Fresno County Counsel

Bv Janelle E. Kelley

Assistant County Counsel for Daniel C. Cederborg County Counsel

Attest:

Bernice E. Seide Clerk of the Board of Supervisors County of Fresno, State of California

Dated: 6/28/2019

Dated: 3-19-19

Consortium:

CalSAWS Consortium

By: Barry L

Barry Zimmerman, Chair Board of Directors

#### County:

County of Glenn

By: John K. Viegas, Chair Bøard of Supervisors

Approved As to Form Glenn County Counsel

By:

William J. Vanasek, County Counsel

Attest:

390

Dated: 4/78/2019

Consortium:

CalSAWS Consortium

By: Zimmerman, Chair Board of Directors

Dated: 3/26/19

County of Humboldt

County:

By:

Rex Bohn, Chair Board of Supervisors

Approved As to Form Humboldt County Counsel By: Jefferson Billingsley (----Kij (may (Title) Attest: seputy Clark of the Board ico

Dated: <u>412812019</u>

Consortium:

CalSAWS Consortium

By: Sarry 2 Barry Zimmerman, Chair

Board of Directors

Dated: 05-22-19

County:

County of Imperial

By: y Kellen

Ryan E. Kelley, Chair Board of Supervisors

Approved As to Form Imperial County Counsel

By: <u>ie Jurner</u> Counsel Katherine Turner

County (Title)

Attest:

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

By: "Dangh" Barry Zimmerman, Chair

Board of Directors

County:

Dated: 3-12-19

County of Inyo BV do Richard Pucci, Chair

Board of Supervisors

Approved As to Form Inyo County Counsel

By:

Marshall Rudolph

(Title)

Attest:

Dated:

Consortium:

CalSAWS Consortium

By: Bany 2

<u>Barry Zimmerman</u>, Chair Board of Directors

#### County:

Dated: MAR 1 2 2019

County of Kern

By:

David Couch, Chair Board of Supervisors

Approved As to Form Kern County Counsel By: Bryan Walters (Title) Attest:

Shipes,

DEPUTY CLERK



TIFFANU

Dated: 428/2019

Consortium:

CalSAWS Consortium

By: ) Jany 2 Barry Zimmerman, Chair

Board of Directors

County:

Dated:

County of Kings

By:

Joe Neves, Chair

Board of Supervisors

Approved As to Form Kings County Counsel

By: Juliana Graur

Assistant County Counsel

Mul Mark County - to the Board of Supervisors Knings

Dated: 6/28/2019

# Consortium:

County:

CalSAWS Consortium

By: Damy 2 <u>Barry Zimmerman</u>, Chair Board of Directors

Dated: \_ 4/2/19

By: Tina Scott, Chair

Board of Supervisors

SUPERI

COUN

Approved As to Form Lake County Counsel

By: Anifa L. Grant

**County Counsel** 

Attest: Carol J. Huchingson Clerk to the Board of Supervisors

By:

Dated: 428/2019

Consortium:

CalSAWS Consortium

By: any 2 Zimmerman, Chair Barri Board of Directors

County:

County of Lassen

By: Jeff Hemphill, Chair

Board of Supervisors

Approved As to Form Lassen County Counsel

By:

Bob Burns ASEEN NOGL

(Title)

Deputy cleps of the Attes

Dated:

Dated: 628/2019

Consortium:

CalSAWS Consortium

By: Barry Zimmerman Chair

Board of Directors

County:

Dated: APR 0 9 2010



i nereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

CELIA ZAVALA Executive Officer Clerk of the Board of Supervisors

By Deputy



F 2 3 APR 0 9 2019

EXECUTIVE OFFICER

County of Los Angeles By:

(Janice Hahn, Chair Board of Supervisors

Approved As to Form Los Angeles County Counsel

By:

Truc Moore County Counsel

Attest:

CELIA ZAVALA, Executive Officer of the Board of Supervisors of the County of Los Angeles

By

DEFUTY

28/2019 Dated: 6

Consortium:

County:

CalSAWS Consortium

By: mmerman Barr , Chair

Board of Directors

Dated: 04-02-2019



County of Madera By: Brett Frazier, Chair Board of Supervisors

Approved As to Form Madera County Counsel Mary E. By: Binning

Digitally signed by Mary E. Binning DN: CN = Mary E. Binning email = mbinning@lozanosmith.com C = US O = Lozano Śmith Date: 2019.02.11 16:55 31 -08'00'

Mary Binning **Deputy County Counsel** 

Shorda Margill Attest:

Page 35 of 73

Dated:

Consortium:

CalSAWS Consortium

By: Jany 2 Barry Zimmerman, Chair

Board of Directors

Dated: 3/24/19

County of Marin

County:

By:

Kathrin Sears, President Board of Supervisors

Approved As to Form Marin County Counsel

By: Valorie Boughey County Counsel

Attest:

Dated: 628,2019

Consortium:

CalSAWS Consortium

By: Barry 2 ( Barry Zimmerman, Chair Board of Directors

County:

Dated: MArch 26 2019

County of Mariposa

By:

Miles Menetrey, Chair Board of Supervisors

Approved As to Form Mariposa County Counsel

By: Trulle

Steven Dahlem

(Title)

Attest: Lene La Roche

Dated: 10585019

Consortium:

CalSAWS Consortium

By: Bang & Zimmerman, Chair Board of Directors

County:

County of Mendocino

By: 🗟 Carre Brown, Chair

Board of Supervisors

Approved As to Form Mendocino County Counsel

By: (harlo

Katharine Elliott

Deputy Cornty ounsel

Tetk CC the

Dated: 5/10/2019

Dated: 428/2019

Consortium:

CalSAWS Consortium

By: am Zimmerman\_, Chair Board of Directors

MAR 1 2 2019

Dated:

County:

County of Merced

By: Lloyd Pareira, Chair

Lloyd Pareira, Chair Board of Supervisors

Approved As to Form Merced County Counsel

By

Thomas Ebersole Chick Dubuty County Counsel



Attest: eputiBoard Clerk

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

By: / 2 Immerman, Chair Barry Board of Directors

County:

Dated: APR 2 3 2010

County of Modoc

By: wals Kathie Rhoads, Chair

Board of Supervisors

Approved As to Form Modoc County Counsel

By: Margaret Long

(Title)

Attest:

Dated: 428/2019

Consortium:

CalSAWS Consortium

By: herman\_, Chair Barry Board of Directors

Dated: 3/8/19

County:

County of Mono

By:

John Peters, Chair

Board of Supervisors

Approved As to Form Mono County Counsel

By: Stacev Simo ounh

(Title)

Attest: Click

APPROVED AS TO INSURANCE: Mono County Risk, Manager 15/19 2 Dated:\_

1741055 5 14448-006

Page 41 of 73

Dated: 4/28/2019 Consortium: **CalSAWS** Consortium By Immerman, Chair WMI Board of Directors Dated: 4.2.19 County: County of Monte By: John M. Philkips, Chair Boald of Supervisors Approved As to Form Monterey County Counsel By: Anne Brereton suty County Counsel (Title) Attest Reviewed as to fiscal provisions oller County of Aconterey 3/21/19

Dated: 628/2019

Consortium:

CalSAWS Consortium

By: 6 Samp 2 Barry Zimmerman, Chair

Board of Directors

Ryan Grégory, Chair

County:

By:

County of Napa

Dated:

Board of Supervisors Approved As to Form Napa County Counsel By Susan Altman Deputy County Counse (Title) Supervisors Attest: APPROVED NAPA COUNTY BOARD OF SUPERVISORS CLERK OF THE BOARD rey i? BY: Deputy

Dated: 628/2019

# Consortium:

CalSAWS Consortium

By: my 2' 0 Barry Zimmerman, Chair Board of Directors

#### County:

Dated: 3/26/2019

County of Nevada

By:

Richard Anderson, Chair Board of Supervisors

Approved As to Form Nevada County Counsel

By:

Scott McLeran

Acting Assistant County Counsel

fue alterare hente Attest:

Dated: 4128/2019

Consortium:

CalSAWS Consortium

By: rman Chair Board of Directors

### County:

4123/19 Dated:

County of Orange

By:

Lisa A. Bartlett, Chairwoman Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER G.C. SEC. 25103, RESO 79-1535 ATTEST:

Clerk of the Board of Supervisors Orange County, California

Approved As to Form Orange County Counsel

Bv:

Carolyn Frost

04/04/19

**Deputy County Counsel** 

Dated: <u>6128/2019</u>

Dated: 412/219

Consortium:

CalSAWS Consortium

By: Dary 2

Barry Zimmerman, Chair Board of Directors

County:

County of Placer

By:

Jeff Brown, Department Director Placer County Health and Human Services

Approved As to Form Placer County Counsel

By:

Renji Jacob

**Deputy County Counsel** 

(Title) Attest:

1741055.5 14448-006

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

By: Bany h S

Board of Directors

County:

Dated:

County of Plumas By:

Michael Sanchez, Chair Board of Supervisors

Approved As to Form Plumas County Counsel

By: 3/1/2019

R. Craig Settlemire

(Title) Attest

Dated: <u>628/2019</u>

Dated: MAR 1 9 2019

Consortium:

**CalSAWS** Consortium

By: Zimmerman, Chair Barr Board of Directors

County:

County of Riverside

By:

Kevin Jeffries, Chair Board of Supervisors

Approved As to Form **Riverside County Counsel** 

By: 101

**Danielle Maland Deputy County Counsel** 

Attest:

ATTEŞT: KEC

Dated: 628/2019

Consortium:

CalSAWS Consortium

By: 6)any 2 Zimmerman, Chair Barry Board of Directors

Dated:

County:

County of Sacramento

By? Patrick Kennedy Chair, Board of Supervisors Approved As to Form Sacramento County Counsel By: **Rick Heyer** (ounse <u>Sugar</u> (Title) Attest:

Dated: 6128/2019

### Consortium:

CalSAWS Consortium

By: Bang 2

Barry Zimmerman, Chair Board of Directors

Dated: 3/19/19

County: County of San Benito By: Mark Medina, Chair Board of Supervisors

<u>Approved As to Form</u> San Benito County Counsel

By: 2-1-2019

Írma Valencia

(Title)Deputy County Counsel

Attest: Jauren Hull Deputy Clerk

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

By: 0 am 2 Barry Zimmerman, Chair Board of Directors

County:

County of San Bernardino

By:

Curt Hagman, Chair Board of Supervisors

Approved As to Form San Bernardino County Gounsel

By:

Adam Ebright

(Title)

#### Attest:

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD LAURA H. WELCH Clerk of the Board of Supervisors of the County of Sam Benardino By Deput

Dated: APR 1 6 2019

Dated: <u>672812019</u>

Consortium:

CalSAWS Consortium

By: Zimmerman Barry Chair Board of Directors

County:

6/2019 Dated: -

Approved and/o	r authorized by the
Board of Supervisors of	the County of San Diego.
Meeting Date: 3/26/10	Minute Order No. 9
By: C Dooly	Date: 32610
Deputy Clerk of the Board	Supervisors

County of San Diego

By:

Supervisor Dianne Jacob, Chairwoman Board of Supervisors

Approved As to Form San Diego County Counsel

By: , Senior Neputy

County Counsel

Attest:

Dated: (

## Consortium:

CalSAWS Consortium

By: Ba , Chair immerman Board of Directors

#### County:

28 Dated: S

City & County of San Francisco By:

London N. Breed Mayor

<u>Approved As to Form</u> Dennis J. Herrera City Attorney

By:

David K. Ries Deputy City Attorney

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

By: immerman, Chair Board of Directors

County:

County of San Joaquin

By:

Miguel A. Villapudua, Chair Board of Supervisors

Approved As to Form San Joaquin County Counsel

By: Annell

Kimberly D. Johnson Deputy County Counsel

Attest minu 1OK



Dated:

1741055.5 14448-006

### Consortium:

CalSAWS Consortium

By: Board of Directors) Chair

COUNTY OF SAN LUIS OBISPO A public entity in the State of California

By: Debtie Amold Chair, Board of Supervisors

ATTEST

By: TOMMY GONG County Clerk and Ex-Officio Clerk of the Board of Supervisors

AV mandy Currens Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT.

RITA L. NEAL County Counsel

By: <u>Deputy County Counsel</u>

April 23, 2019 Date

April Date

4/1/19

Date

Dated:

Consortium:

CalSAWS Consortium

By: any Barry Zimmerman, Chair Board of Directors

Dated:

County:

County of San Mateo

By: conole Snow

Carole Groom, President Board of Supervisors

Approved As to Form San Mateo County Counsel

Inch By:

Monali Sheth

(Deputy County Counsel)

Attest:

28/2019 Dated: (o

Consortium:

CalSAWS Consortium

By:/ 1) any Barry Zimmerman , Chair Board of Directors

Dated: 4-2-19

County:

County of Santa Barbara

By: Steve Lavagnino Chair, Board of Supervisors

Approved As to Form Santa Barbara County Counsel

By:

Paul Lee Deputy County Counsel

Attest: Thila dela Guerrer

28/2019 Dated: 6

Consortium:

CalSAWS Consortium

Bv: Zimmerman, Chair Board of Directors

County:

County of Santa Clara

S. Joseph Simitian, President Board of Supervisors Date: <u>APR 2 3 2019</u>

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST: Amean

Tiffany Lennear Assistant Clerk of the Board of Supervisors Date: APR 2 3 2019

APPROVED AS TO FORM AND LEGALITY

Javier Serrano Deputy County Counsel Date: 3/22/19

Dated: 10/28/2019

Consortium:

CalSAWS Consortium

By: Dang 1 Barry Zimmerman, Chair

Board of Directors

4/25 Dated:

County:

County of Santa Cruz By: Ryan Coonerty, Chair Board of Supervisors

Approved As to Form Santa Cruz County Counsel

BV:

Bana McRae County Counsel

Attest: Here

Approved as to insurance By\_ Date 4/9/19

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

Sam 2 Barry Zimmerman, Chair

Board of Directors

Dated: 4/2\$19

County of Shasta By:

Leonard Moty, Chairman Board of Supervisors County of Shasta, State of California

Attest:

County:

By:

Approved As to Form Shasta County Counsel By: 2/25/11

Alan Cox **County Counsel** 

**Risk Management Approval** 

By:

James Johnson Risk Management Analyst

Dated: 10/28/2019

Consortium:

CalSAWS Consortium

By:

Barry Zimmerman, Chair Board of Directors

County:

Dated: 02/19/2019

County of Sierra

By:

Paul Roen, Chair Board of Supervisors

<u>Approved As to Form</u> Sierra County Counsel

By:

Amanda Uhrhammer

Deputy County Counsel (Title)

Attest

Heather Foster Clerk of the Board

Dated: 6/28/2019

# Consortium:

CalSAWS Consortium

By: Dany & Barry 21mmerman, Chair

Board of Directors

County:

County of Siskiyou

By: Brandon a, Criss

Brandon A. Criss, Chair Board of Supervisors

<u>Approved As to Form</u> Siskiyou County Counsel

By:

Edward J. Kiernan County Counsel

Attest:

Dated: 3 19 19

County Clerk & Ex-Officio Clerk of the Board

By: U )end

2019 Dated: (n

Consortium:

CalSAWS Consortium

By: Jany h Barry Zimmerman, Chair Board of Directors

Dated: 4/26/19

County:

County of Solano

By: Brigitta E. Corsello

County Administrator

Approved As to Form Solano County Counsel

By: Entre 8 Dennis Bunting

y Counsel

(Title) Attest: Chrotte

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

By: BARRY ZIMMERMAN, Chair Board of Directors

Dated:

County:

County of Sonoma By: David Rabbitt Board of Supervisors Approved As to Form Sonoma County Counsel By: Adam Radtke Deputy County Counsel BRATTON SHERYL Attest:

Dated: \_6/28/2019

Consortium:

CalSAWS Consortium

By: any 2 Barry Zimmerman, Chair Board of Directors

Dould of Bild

County:

Dated: April 2, 2019

County of Stanislaus

By:

Terrance Withrow, Chair Board of Supervisors

<u>Approved As to Form</u> Stanislaus County Counsel

By: John P. Doering

County Counsel

Attest: Deputy Clerk

Dated: \_6/28/2019

Consortium:

CalSAWS Consortium

By: Bangh Sim Barry Zimmerman, Chair Board of Directors

County:

County of Sutter

Dated: 3.26.19

By:

Mat Conant, Chair Board of Supervisors

Approved As to Form Sutter County Counsel

By: \_\_\_\_\_ County Counsel

Sutter County Health and Human Services

By Mincent Have

Nancy O'Hara, Director



Attest: Donna Johnston Clerk of the Board

By: <u>Ania Eurahnan</u> Depilty

Dated: 6 28 2019

MAR 0 5 2019

Dated:

Consortium:

CalSAWS Consortium

By: Barry Zimmerman , Chair Board of Directors

County:

County of Tehama

Al. By:

 Steve Chamblin, Chair Board of Supervisors

Approved As to Form Tehama County Counsel

By:

Andrew Plett Deputy County Counsel

Attest:

Dated: 6/28/2019

Consortium:

CalSAWS Consortium

By: / Zimmerman Barn , Chair Board of Directors

Dated: 3812019

County:

County of Trinity By:

Judy Morris, Chairman Trinity County Board of Supervisors

Approved As to Form Trinity County County By: Margaret Long

County Counsel

Attest: Deputy Clerk of the Board

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding (MOU) to be executed and attested by their proper officers thereunto duly authorized, and their official seal to be affixed, as of the day and year written.

Dated: <u>6/28/2019</u>

## Consortium:

CalSAWS Consortium

By: Barry Zimmerman, Chair Board of Directors

Dated: 4-9-19

#### County:

County of Tulare By:

Kuyler Crocker, Chairman Board of Supervisors

<u>Approved As to Form</u> Tulare County Counsel

By Uennifer M. Flores 20181958 x Comse Jopu Count (Title) Jason Attest: Cou



IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding (MOU) to be executed and attested by their proper officers thereunto duly authorized, and their official seal to be affixed, as of the day and year written.

Dated: 128/2019

Consortium:

CalSAWS Consortium

By: Barry Chair Zimmerman Board of Directors

Dated: 4/110/19

County:

County of Tuolumne By: Karl Rodefer, Chair Board of Supervisors

<u>Approved As to Form</u> Tuolumne County Counsel

By: 3, 21/10

Cody Nesper

t bereby cortify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

i the Board By

Attest:

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding (MOU) to be executed and attested by their proper officers thereunto duly authorized, and their official seal to be affixed, as of the day and year written.

Dated: 6/28/2019

Consortium:

County:

County of Ventura

CalSAWS Consortium

Zimmerman, Chair Barn Board of Directors

Dated: 4/30) (9

ATTEST: MICHAEL POWERS Clerk of the Board of Supervisors County of Ventura, State of California

By: Deputy Clerk of the Board



By: Hellen

Supervisor Steve Bennett Chair, Board of Supervisors

Approved As to Form Ventura County Counsel

1: Joseph J. Rendongso Joseph Rahdazzo Assistent County Countel County County Countel

Attest:

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding (MOU) to be executed and attested by their proper officers thereunto duly authorized, and their official seal to be affixed, as of the day and year written.

Dated: \_6/28/2019

Consortium:

CalSAWS Consortium

By: Barn Zimmerman, Chair Board of Directors

Dated:\_ 3/12/19

County:

County of Yolo By:

Don Saylor, Chair Board of Supervisors

Approved As to Form Philip J. Pogledich Yolo County Counsel

By:

Hope P. Welton Senior Deputy County Counsel

1.1. 11. 1

Attest: Julie Dachtler, Deputy Clei Board of Supervisors By:

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding (MOU) to be executed and attested by their proper officers thereunto duly authorized, and their official seal to be affixed, as of the day and year written.

Dated: 6/28/2019

Consortium: CalSAWS Consortium

By: Barry Limmerman , Chair Board of Directors

Dated: 03-26-2019

County:

County of Yuba By: Mike Leahy, Chair

Board of Supervisors

Approved As to Form Yuba County Counsel

By: Konu Klood

Brunella M. Wood Deputy County Counsel for Michael J. Ciccozzi County Counsel

Attest:



## **Monterey County**

**Board Report** 

Legistar File Number: A 21-052

Item No.23

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/19/2021

Version: 1

Current Status: Department of Social Services - Consent Matter Type: BoS Agreement

a. Ratify the execution by the County Purchasing Officer or his designee, of agreements with local food vendors to support older adult residents to shelter-in-place during the COVID-19 Pandemic by providing home delivered meals under the Great Plates Delivered and AAA CARES Program in the total cumulative amount of \$4,610,495 for the period June 30, 2020 through March 8, 2021; and b. Authorize the Contracts/Purchasing Officer or his designee to execute amendments to the Agreements in an amount not to exceed 10% of the aggregate total of each agreement and does not significantly change the scope of the agreement during the course of the Pandemic.

#### **<u>RECOMMENDATION</u>**:

It is recommended that the Board of Supervisors:

a. Ratify the execution by the County Purchasing Officer or his designee, of agreements with local food vendors to support older adult residents to shelter-in-place during the COVID-19 Pandemic by providing home delivered meals under the Great Plates Delivered and AAA CARES Program in the total cumulative amount of \$4,610,495 for the period June 30, 2020 through March 8, 2021; and b. Authorize the Contracts/Purchasing Officer or his designee to execute amendments to the Agreements in an amount not to exceed 10% of the aggregate total of each agreement and does not significantly change the scope of the agreement during the course of the Pandemic.

#### SUMMARY/DISCUSSION:

The Great Plates Delivered (GPD) Program is a statewide effort launched by the Governor on April 24, 2020 to support adults 60 years of age and older who are at high-risk from COVID-19, enabling them to shelter in place by delivering three (3) nutritious meals per day. It also provides essential economic stimulus to local businesses and workers by contracting with local restaurants and food providers for the meals. The program targets those individuals who do not qualify for other assistance due to their income level. The restaurants expressed interest through the State's Great Plates Delivered website and Monterey County administers the program through the Department of Social Services Area Agency on Aging. The County is one of 28 counties and cities participating in the program throughout the state. Funding is provided through the Federal Emergency Management Agency (FEMA) and is currently serving 296 participants. Additionally, the eligibility was expanded to approximately 80 participants who did not qualify for the Great Plates Program financed with the CARES Act funding through December 30, 2020.

Due to the quick implementation timeframe and the urgency of the need, agreements were executed

with local providers through Contracts/Purchasing Department. While the majority of these agreements were initially under the \$100,000 threshold for requiring Board approval, the execution of subsequent amendments has brought the cumulative total to \$4,610,495. Attachment A lists the vendors, the original contract amounts, the amounts added through subsequent amendments, and the overall cumulative total.

The Great Plates Delivered Program has been extended on a month-to-month basis and is currently authorized through March 8, 2021. The CARES Senior Meal Program ended on December 30, 2020 due to the CARES Act Funding had expired. All existing agreements contain language allowing termination should the Great Plates Delivered Program not be extended. Approving the executed agreements and associated amendments and authorizing the Contracts/Purchasing Officer or his designee to execute future amendments in response to the Pandemic will ensure continuity of these vital services to vulnerable county residents.

On February 9, 2021, the Board of Supervisor's did approve extending the GPD and to start back up the CARES Senior Meal Program through June 30, 2021 provided FEMA is continuing to support the GPD Program. These amendments are in progress and staff will return back to the Board at a later date as needed. The Department requests ratification of the executed agreements and associated amendments through March 8, 2021 by the Contracts/Purchasing Officer.

#### OTHER AGENCY INVOLVEMENT:

The agreements has been reviewed and approved by the Auditor Controller and by Contract/Purchasing. County Counsel has reviewed the agreements as to form.

#### FINANCING:

**Description** Timeframe **Total Expenditures** FEMA 75% State 18.75% County 6.25% (CARES) County 6.25% GPD 6/1-12/30/20 \$2,828,627 \$2,121,470 \$530,368 \$176,789 GPD 12/31-3/8/21 \$1,466,353 \$1,099,764.75 \$274,941.19 \$91,647.06 CARES 9/28-12/30/20 \$315.515 \$315.515 Total \$4,610,495 \$3,221,234.75 \$805,309.19 \$429,304 \$91,647.06

The Great Plates Delivered meal program's estimated reimbursement for eligible costs is 75% Federal(FEMA), 18.75% State, and 6.25% County Share. The CARES Meal program is not eligible for FEMA reimbursement and is 100% county funded. The total estimated costs is \$4,610,495.

The total estimated reimbursement by FEMA \$3,221,234.75 and State is \$805,309.19, however, it cannot be guaranteed on how much we will receive or when it will arrive. There are sufficient appropriations and revenues in the OES unit 1050-CAO005-8056 FY 2020-21 Adopted Budget. There is no additional County General Fund requested.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

These agreements correlate with the Economic Development and Health & Human Services Strategic Initiatives approved by the Board of Supervisors, by supporting local businesses and workers impacted by the Pandemic as well as by providing vital services to vulnerable county residents, allowing them to meet their nutritional needs while sheltering-in-place. Mark a check to the related Board of Supervisors Strategic Initiatives

X Economic Development Administration X Health & Human Services Infrastructure Public Safety

Prepared by: Becky Cromer, Interim Finance Director, x4404

Approved by: Lori A. Medina, Director x4430

Attachments:

Attachment A - Contract Summary Coastal Cuisine Agreement plus 4 amendments Denny's Marina Agreement plus 4 amendments Linda's Taqueria Agreement plus 1 amendment Main Street Bakery Agreement plus 4 amendments Mezzaluna Agreement plus 3 amendments Monterey Coast Brewing Agreement plus 4 amendments Norma's Agreement plus 2 amendments Pasta Mia Agreement plus 4 amendments Stevie's Agreement plus 4 amendments The Cork and Plough Agreement plus 1 amendment



## **Monterey County**

**Board Report** 

Legistar File Number: A 21-052

March 02, 2021

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor

Salinas, CA 93901

Item No.

Introduced: 2/19/2021 Version: 1

Current Status: Agenda Ready Matter Type: BoS Agreement

**a.** Ratify the execution by the County Purchasing Officer or his designee, of agreements with local food vendors to support older adult residents to shelter-in-place during the COVID-19 Pandemic by providing home delivered meals under the Great Plates Delivered and AAA CARES Program in the total cumulative amount of \$4,610,495 for the period June 30, 2020 through March 8, 2021; and

b. Authorize the Contracts/Purchasing Officer or his designee to execute amendments to the Agreements in an amount not to exceed 10% of the aggregate total of each agreement and does not significantly change the scope of the agreement during the course of the Pandemic.

## **<u>RECOMMENDATION</u>**:

It is recommended that the Board of Supervisors:

a. Ratify the execution by the County Purchasing Officer or his designee, of agreements with local food vendors to support older adult residents to shelter-in-place during the COVID-19 Pandemic by providing home delivered meals under the Great Plates Delivered and AAA CARES Program in the total cumulative amount of \$4,610,495 for the period June 30, 2020 through March 8, 2021; and

b. Authorize the Contracts/Purchasing Officer or his designee to execute amendments to the Agreements in an amount not to exceed 10% of the aggregate total of each agreement and does not significantly change the scope of the agreement during the course of the Pandemic.

#### SUMMARY/DISCUSSION:

The Great Plates Delivered (GPD) Program is a statewide effort launched by the Governor on April 24, 2020 to support adults 60 years of age and older who are at high-risk from COVID-19, enabling them to shelter in place by delivering three (3) nutritious meals per day. It also provides essential economic stimulus to local businesses and workers by contracting with local restaurants and food providers for the meals. The program targets those individuals who do not qualify for other assistance due to their income level. The restaurants expressed interest through the State's Great Plates Delivered website and Monterey County administers the program through the Department of Social Services Area Agency on Aging. The County is one of 28 counties and cities participating in the program throughout the state. Funding is provided through the Federal Emergency Management Agency (FEMA) and is currently serving 296 participants. Additionally, the eligibility was expanded to approximately 80 participants who did not qualify for the Great Plates Program financed with the CARES Act funding through December 30, 2020.

Due to the quick implementation timeframe and the urgency of the need, agreements were executed with local providers through Contracts/Purchasing Department. While the majority of these agreements

were initially under the \$100,000 threshold for requiring Board approval, the execution of subsequent amendments has brought the cumulative total to \$4,610,495. Attachment A lists the vendors, the original contract amounts, the amounts added through subsequent amendments, and the overall cumulative total.

The Great Plates Delivered Program has been extended on a month-to-month basis and is currently authorized through March 8, 2021. The CARES Senior Meal Program ended on December 30, 2020 due to the CARES Act Funding had expired. All existing agreements contain language allowing termination should the Great Plates Delivered Program not be extended. Approving the executed agreements and associated amendments and authorizing the Contracts/Purchasing Officer or his designee to execute future amendments in response to the Pandemic will ensure continuity of these vital services to vulnerable county residents.

On February 9, 2021, the Board of Supervisor's did approve extending the GPD and to start back up the CARES Senior Meal Program through June 30, 2021 provided FEMA is continuing to support the GPD Program. These amendments are in progress and staff will return back to the Board at a later date as needed. The Department requests ratification of the executed agreements and associated amendments through March 8, 2021 by the Contracts/Purchasing Officer.

#### OTHER AGENCY INVOLVEMENT:

The agreements has been reviewed and approved by the Auditor Controller and by Contract/Purchasing. County Counsel has reviewed the agreements as to form.

Description	Timeframe	Total Expenditures	FEMA 75%	State 18.75%	County 6.25% (CARES)	County 6.25%
GPD	6/1-12/30/20	\$2,828,627	\$2,121,470	\$530,368	\$176,789	
GPD	12/31-3/8/21	\$1,466,353	\$1,099,764.75	\$274,941.19		\$91,647.06
CARES	9/28-12/30/20	\$315,515			\$315,515	
Total		\$4,610,495	\$3,221,234.75	\$805,309.19	\$429,304	\$91,647.06

#### FINANCING:

The Great Plates Delivered meal program's estimated reimbursement for eligible costs is 75% Federal(FEMA), 18.75% State, and 6.25% County Share. The CARES Meal program is not eligible for FEMA reimbursement and is 100% county funded. The total estimated costs is \$4,610,495.

The total estimated reimbursement by FEMA \$3,221,234.75 and State is \$805,309.19, however, it cannot be guaranteed on how much we will receive or when it will arrive. There are sufficient appropriations and revenues in the OES unit 1050-CAO005-8056 FY 2020-21 Adopted Budget.

There is no additional County General Fund requested.

## BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

These agreements correlate with the Economic Development and Health & Human Services Strategic Initiatives approved by the Board of Supervisors, by supporting local businesses and workers impacted by the Pandemic as well as by providing vital services to vulnerable county residents, allowing them to meet their nutritional needs while sheltering-in-place.

Mark a check to the related Board of Supervisors Strategic Initiatives

X Economic Development Administration X Health & Human Services Infrastructure Public Safety

Prepared by: Becky Cromer, Interim Finance Director, x4404

Beekly Ceome For Loui A. Medina

Approved by: Lori A. Medina, Director x4430

Attachments: Attachment A - Contract Summary Coastal Cuisine Agreement plus 4 amendments Denny's Marina Agreement plus 4 amendments Linda's Taqueria Agreement plus 1 amendment Main Street Bakery Agreement plus 4 amendments Mezzaluna Agreement plus 3 amendments Monterey Coast Brewing Agreement plus 4 amendments Norma's Agreement plus 2 amendments Pasta Mia Agreement plus 4 amendments Stevie's Agreement plus 4 amendments The Cork and Plough Agreement plus 1 amendment

## ATTACHMENT A

## SUMMARY OF THE GREAT PLATES AND THE AAA CARES MEAL PROGRAMS

								Expenditures	Unexpended
VENDORS:	Term Ending	Original	Amend.#1	Amend.#2	Amend.#3	Amend.#4	Total Budget	thru 1/10/21	Balance
Coastal Cuisine	3/8/2021	84,000	150,000	140,000	176,000	\$257 <i>,</i> 653	\$ 807,653	604,505	\$ 203,148
Denny's (P.O.)	3/8/2021	50,000	75,000	72,000	113,000	\$102,236	\$ 412,236	310,662	\$ 101,574
Linda's Taqueria (PO)	10/31/2020	50,000	75,000				\$ 125,000	88,845	\$ 36,155
Main Street Bakery	3/8/2021	114,000	150,000	76,000	155,000	\$151,028	\$ 646,028	503,072	\$ 142,956
Mezzaluna Pasteria (P.O.)	3/8/2021	95,000	160,000	288,486			\$ 543,486	310,110	\$ 233,376
Montery Coast Brewing	3/8/2021	75,000	150,000	115,000	110,000	\$178,980	\$ 628,980	478,500	\$ 150,480
Norma's Family Restaurant (PO)	1/7/2021	90,000	130,000	75,000			\$ 295,000	207,605	\$ 87,395
Pasta Mia (PO)	3/8/2021	150,000	75,000	75,000	231,008		\$ 531,008	346,670	\$ 184,338
Stevies	3/8/2021	50,000	290,000	55,000	116,104		\$ 511,104	409,530	\$ 101,574
The Cork & Plough	10/31/2020	50,000	60,000				\$ 110,000	94,809	\$ 15,191
Total		\$ 808,000	\$1,315,000	\$ 896,486	\$901,112		\$ 4,610,495	\$ 3,354,308	\$ 1,256,187

## 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: Coastal Cuisine and Catering

(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:**

COVID-19 - For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch, and dinner to eligible households as directed by the County Department of Social Services.

#### 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:\$ <sup>84,000.00</sup>

## 3.0 TERM OF 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: Sample Invoice and Weekly Delivery Tracking Sheet

## 5.0 <u>PERFORMANCE STANDARDS:</u>

- 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 <u>TERMINATION:</u>

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 <u>not</u> 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 **<u>Qualifying Insurers:</u>** 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.

X 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.

<u>Agreement Over \$100,000 Business Automobile Liability Insurance</u>: 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.)

<u>Workers' Compensation Insurance</u>: 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.)

**<u>Professional Liability Insurance</u>**: 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 <u>Confidentiality:</u> 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 <u>County Records:</u> 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 <u>Maintenance of Records:</u> 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 <u>Access to and Audit of Records:</u> 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 **<u>Royalties and Inventions:</u>** 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:

Kathleen Murray-Phillips Management Analyst

Name and Title

1000 S. Main St., Suite 301 Salinas, CA 93901

Address

831.796-3530

Phone:

#### FOR CONTRACTOR:

Caron De Seguirant Secretary

Name and Title

150 Mar Vista Dr. Monterey, CA 93940

Address

831.372-6200 (0) 831.578-4237 ('C)

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 <u>Amendment:</u> This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver:</u> 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 <u>Contractor:</u> 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 <u>Assignment and Subcontracting:</u> 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 <u>Successors and Assigns:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 <u>Governing Law:</u> This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 <u>Non-exclusive Agreement</u>: 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 <u>Construction of Agreement:</u> 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 <u>Counterparts:</u> 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 <u>Authority:</u> 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 <u>Integration</u>: 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 <u>Interpretation of Conflicting Provisions:</u> 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.

## 16.0 SIGNATURE PAGE.

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

	COUNTY OF MONTEREY	CONTRACTOR
By:	Michael K. Derr	Coastal Cuisine and Catering
Date:	6/5/2020 6:18 PM PDT	Contractor's Business Name*
By:		DocuSigned by:
Date:	Department Head (if applicable)	By: DOE91BC(Stightature of Chair, President, or Vice-President) *
By:		Caron De Seguirant Secretary
Date:	Board of Supervisors (if applicable)	Date: 6/5/2020   5:28 PM EDT
Approve	d as to Form <sup>1</sup>	
By:	CN2	Down Classed have
Date:		By: Bocusigned by: 237346 Starte of Secretary, Asst. Secretary,
Approve	d as to Fiscal Provisions <sup>2</sup>	CFO, Treasurer or Asst. Treasure) * Brett De Seguirant
By:	Burce Mousa	Name and Title
Date:		Date: 6/5/2020   2:34 PM PDT
Approve	d as to Liability Provisions <sup>3</sup>	
By:	<u></u>	
Date:	Risk Management	
County	Board of Supervisors' Agreement Number:	, approved on (date):

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

<sup>1</sup>Approval by County Counsel is required

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

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



6/5/2020 | 5:54 PM PDT

Agreement ID:

#### **EXHIBIT** A

#### SCOPE OF SERVICES/PAYMENT PROVISIONS

#### COVID-19 COASTAL CUISINE AND CATERING GREAT PLATES DELIVERED PROGRAM JUNE 1, 2020 – JULY 31, 2020

#### I. CONTACT INFORMATION

CONTRACTOR Contact Person & Disaster Preparedness

Caron De Seguirant Partner 150 Mar Vista Dr. Monterey, CA 93940 (831) 578-4237 CoastalCuisine831@AOL.com

COUNTY Contract Manager:

Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services 1000 South Main Street Suite 301 Salinas, CA 93901 (831) 796-3530 Fax: (831) 755-8477 murrayphillipsk@co.monterey.ca.us

#### II. OFFICE AND SITE LOCATIONS

Administrative Offices: 150 Mar Vista Dr. Monterey, CA 93940 **Restaurant Location(s):** 150 Mar Vista Dr. Monterey, CA 93940

#### **III. COMPLIANCE REQUIREMENTS**

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

### EXHIBIT A

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of the Great Plates Program and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- b. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- c. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.
  - iii. Delivery Process:
    - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
    - 2. Observe the front door to ensure meals are picked up by the Client.
    - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
    - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
    - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.

## EXHIBIT A

- 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
- 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- d. Delivery Service.
  - i. Is CONTRACTOR using a delivery service (circle) YES or NO
     1. If yes, what is name of service:
  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- e. Referral and Reservation System
  - i. COUNTY Contract Manager shall email CONTRACTOR a weekly list of eligible Clients.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

## V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain records that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that all three meals are wanted by the Client.
    - 1. A record of which meal will not be delivered if such a request is made by Client.
- b. Restaurants will complete the provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoice (see EXHIBIT B for Sample Invoice) and Weekly Delivery Tracking Sheet (see EXHIBIT C for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.
- c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

## VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

## VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered Program for the period June 1, 2020 through June 30, 2020 shall not exceed fifty thousand dollars (\$50,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.

(remainder of this page intentionally left blank)

**EXHIBIT B** 

Coastal Cuisine and Catering

## **INVOICE SAMPLE**

## Great Plates Delivered Program MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: June 1, 2020 - July 31, 2020 Week Ending:\_\_\_\_

Allowed Categories	Budget per Meal		Number of Meals/Deliveries	Total	
BREAKFASTS	\$	15	0	\$	
LUNCHES	\$	17	0	\$ -	
DINNERS	\$	28	0	\$-	
Weekly delivery tracking sheet must accompany this invoice.					
DELIVERIES per customer	\$	6	0	\$ -	
If using outside delivery service, must attached invoice that covers this week of service.					
Total Invoice	\$	66		\$ -	

## CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

## **EXHIBIT C**

## Coastal Cuisine and Catering

## Great Plates Delivered Program MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Weekly Delivery Tracking Sheet Week Ending:

Breakfast Lunch Dinner Delivery Date Delivered Delivered Stops

Client Number

Column Total

0

## AMENDMENT #1 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY

#### And

## COASTAL CUISINE AND CATERING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED PROGRAM

THIS AMENDMENT #1 is entered into this 1st day of August 2020 by and between the County of Monterey (herein called "County") and <u>Coastal Cuisine and Catering</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the Great Plates Delivered program was originally scheduled to end on July 31, 2020;

WHEREAS, the State has extended the Great Plates Delivered program through at least August 9, 2020 and is expected to extend it through October 31, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$234,000.00</u>.
    - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 1, 2020 to October 31, 2020, 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 with COUNT signing last, and CONTRACTOR may not continue working beyond July 31, 2020 before County signs Amendment #1 to the Agreement.

Section 9.03 Automobile Insurance Thresholds -

The amount payable under this Amendment triggers the higher business automobile liability insurance requirements of this section. The CONTRACTOR shall provide evidence that they have insurance covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Amendment, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

All other terms and conditions of the Standard Agreement and its Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

**CONTRACTOR** 

Bv: Brett De Seguirant, President

aron<sup>9</sup> Bé<sup>A</sup>Séguirant, Secretary

Date: \_\_\_\_\_\_ 4:15 PM PDT

Date: 7/22/2020 | 7:19 PM EDT

## COUNTY OF MONTEREY

OccuSioned by: Michael K. Derr By:

Date: 7/22/2020 | 7:52 PM PDT

Approved as to form and legality

Marina Pantilunko Marina Pantilunko Bv:

Date: 7/22/2020 | 6:08 PM PDT

Reviewed as to fiscal provisions:

Gary Giboney Bv:

Date: 7/22/2020 | 7:40 PM PDT

By:

Βv

Date:

## AMENDMENT #2 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And COASTAL CUISINE AND CATERING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #2 is entered into this 12<sup>th</sup> day of October 2020 by and between the County of Monterey (herein called "County") and <u>Coastal Cuisine and Catering</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics (collectively "the Program").

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 5, 2020 and Amendment #1 on July 22, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on October 10, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Program through December 20, 2020; and

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$374,000.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement, as amended is from June 1, 2020 to December 20, 2020, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond October 9, 2020 before Amendment #2 to the Agreement is executed by the parties.

Exhibit A – SCOPE OF SERVICES/PAGMENT PROVISIONS shall be deleted and replaced by Exhibit A-1 and attached to and made part of this Amendment.

Agreement ID: COVID-19, GPD001 Amendment #2 Exhibit B-1 – INVOICE SAMPLE FOR THE AAA CARES MEALS shall be added and attached to and made part of this Amendment.

All other terms and conditions of the Standard Agreement, Amendment #1, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #2 to the Agreement on the dates set forth below.

CONTRACTOR

.

DocuSigned by: Brett De Seguirant By

Brett De Seguirant, President

Caron De Seguirant Caron De Seguirant, Secretary

Date: 10/9/2020 | 12:31 PM PDT

Date: 10/9/2020 | 2:45 PM EDT

DocuSioned by:

By:

COUNTY OF MONTEREY

DocuSigned by: Michael K. Derr By Michael R. Derr

Date: \_\_\_\_\_ 2:59 PM PDT

Approved as to form and legality

By: Marina Pantchenko Marina Pantchenko

Date: 10/12/2020 | 12:16 PM PDT

Reviewed as to fiscal provisions:

By: \_\_\_\_\_

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

By: Gary Gibowy Gary Gibowy Gary Giboney Date: 10/12/2020 | 2:34 PM PDT

> Agreement ID: COVID-19, GPD001 Amendment #2

## **EXHIBIT A-1**

#### SCOPE OF SERVICES/PAYMENT PROVISIONS

#### COASTAL CUISINE AND CATERING HOME DELIVERED MEAL SERVICES JUNE 1, 2020 – DECEMBER 20, 2020

#### I. CONTACT INFORMATION

CONTRACTOR Contact Person & Disaster Preparedness	Brett De Seguirant, Owner 150 Mar Vista Dr. Monterey, CA 93940 (831) 578-4237 <u>Coastalcuisine831@aol.com</u>		
COUNTY Contract Manager:	Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services 1000 South Main Street, Suite 301 Salinas, CA 93901 (831) 796-3530 murrayphillipsk@co.monterey.ca.us		

#### II. OFFICE AND SITE LOCATIONS

**Business and Restaurant Location:** 150 Mar Vista Dr. Monterey, CA 93940 (831) 578-4237

#### III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of two programs to provide meals to seniors and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Two restaurant meals for seniors programs:
  - i. Great Plates Delivered, and;
  - ii. AAA CARES Meals.
- b. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- c. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- d. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.
  - iii. Delivery Process:
    - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
    - 2. Observe the front door to ensure meals are picked up by the Client.
    - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.

- 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
- 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
- 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
- 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- e. Delivery Service.

  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- f. Referral and Reservation System
  - i. COUNTY Contract Manager or designee shall email CONTRACTOR two weekly lists of eligible Clients (one for each Program):.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

## V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain details that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that meals are wanted by the Client.
    - 1. A record of which meal(s) will not be delivered if such a request is made by Client.
- b. Restaurants will complete the two provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoices (see EXHIBIT B and EXHIBIT C for Sample Invoices) and Weekly Delivery Tracking Sheet (see EXHIBIT D for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.
- c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

## VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

## VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

	Breakfast	Lunch	Dinner	Delivery	Daily Total
[	\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered and AAA CARES Meals Programs for the entire contract period of June 1, 2020 through December 20, 2020 shall not exceed three hundred seventy-four thousand dollars (\$374,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Visa Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

## VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

(remainder of this page intentionally left blank)

# **EXHIBIT B-1**

### Coastal Cuisine and Catering

# INVOICE SAMPLE

### AAA CARES Meals MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: October 12, 2020 - Dec. 20, 2020 Week of:\_\_\_\_\_

Allowed Categories	Budge	t per Meal	Number of Meals/Deliveries	Total
BREAKFASTS	\$	15	#REF!	#REF!
LUNCHES	\$	17	#REF!	#REF!
DINNERS	\$	28	#REF!	#REF!
Weekly delivery tracking sheet must accompany this invoice.				
DELIVERIES	\$	6	#REF!	#REF!
No more than one delivery per day per customer				
If using outside delivery service, must attached invoice that covers this week of service.				
Total Invoice	\$	66		#REF!

### CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

### AMENDMENT #3 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And COASTAL CUISINE AND CATERING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #3 is entered into this 10<sup>th</sup> day of December 2020 by and between the County of Monterey (herein called "County") and <u>Coastal Cuisine and Catering</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 9, 2020, Amendment #1 on September 24, 2020, and Amendment #2 on October 12, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every 30 days and is currently scheduled to end on January 7, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 30, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$550,000.00.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 1, 2020 to January 7, 2021, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond December 10, 2020 before County signs Amendment #3 to the Agreement.

Section 14.0 - NOTICES address for CONTRACTOR shall be deleted and replaced with: Coastal Cuisine & Catering 2004 Fairgrounds Road Monterey Kitchen Monterey CA 93940 Office - (831) 372-6200 Cell - (831) 578-4237

All other terms and conditions of the Original Standard Agreement, Amendment #1, Amendment #2, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #3 to the Agreement on the dates set forth below.

CONTRACTOR

-DocuSigned by: Brett De Servirant By: Brett De Seguirant, President

Date:

12/16/2020

### COUNTY OF MONTEREY

By:	Debra Wilson, Contracts/Purchasing Supervisor
-	Debra R. Wilson
	Contracts/Purchasing Supervisor
	12/16/2020
Date:	

Approved as to form and legality -DocuSigned by:

Marina Pantchenko

	DocuSigned by:
By:	Caron De Seguirant, Secretary

12/16/2020 Date:

65EE9F1502BD412... By: Marina Panchenko 12/16/2020 Date: \_\_\_\_\_

Reviewed as to fiscal provisions:

	DocuSigned by:	
By:	Gary Giboney D3834BFEC1D8449	
	Gary Giboney	
Date:	12/16/2020	
Date.		

Agreement ID: COVID-19, GPD001 Amendment #3

By: \_\_\_\_\_

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

### AMENDMENT #4 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY

### And

### COASTAL CUISINE AND CATERING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #4 is entered into this 7<sup>th</sup> day of January 2021 by and between the County of Monterey (herein called "County") and <u>Coastal Cuisine and Catering</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 9, 2020, Amendment #1 on September 24, 2020, Amendment #2 on October 12, 2020; and Amendment #3 on December 16, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every thirty (30) days and is currently estimated to end on March 8, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through December 30, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$807,653.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from <u>June 1, 2020</u> to <u>March 8, 2021</u>, 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 with COUNTY signing last.

All other terms and conditions of the Original Standard Agreement, Amendment #1, Amendment #2, Amendment #3, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #4 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
DocuSigned by:	DocuSigned by:
By:	By:
Brett De Seguirant	Michael Derr
President 1/20/2021	Contracts & Purchasing Officer
Date:	Date:
By: DADA1ABC12504BD Caron De Seguirant Secretary 1/20/2021	Approved as to form and legality DocuSigned by: Marina fantchunko <u>By:</u> Marina Pantchenko 1/22/2021
Date:	Date:
	Reviewed as to fiscal provisions:

By: <u>Gary Giboney</u> 1/22/2021 Gary Giboney

### **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: West Coast Diner Management, Inc., dba Denny's Restaurant, Marina, CA

(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:**

COVID-19 - For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch, and dinner to eligible households as directed by the County Department of Social Services.

#### 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:\$ 50,000.00

#### 3.0TERM OF AGREEMENT:

- June 1, 2020 to 3.01 The term of this Agreement is from July 31, 2020 \_\_\_, 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: Sample Invoice and Weekly Delivery Tracking Sheet

### 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 <u>TERMINATION:</u>

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 <u>not</u> 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.

<u>Agreement Under \$100,000 Business Automobile Liability Insurance</u>: 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.

		1

<u>Agreement Over \$100,000 Business Automobile Liability Insurance</u>: 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 <u>Confidentiality:</u> 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 <u>County Records:</u> 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 <u>Maintenance of Records:</u> 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 <u>Access to and Audit of Records:</u> 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 <u>NOTICES:</u>

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:			
Kathleen Murray-Phillips Management Analyst	Neal Williamson, Director of Operations			
Name and Title	Name and Title			
1000 S. Main St., Suite 301 Salinas CA 93901	3550 Mowry Ave., Suite 301 Fremont CA 94538			
Address	Address			
831.796-3530	916.384-6299			
Phone:	Phone:			

### 15.0 MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest:</u> 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 <u>Amendment</u>: This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver:</u> 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 <u>Contractor:</u> 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 <u>Assignment and Subcontracting:</u> 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 <u>Successors and Assigns:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 <u>Governing Law:</u> This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 <u>Non-exclusive Agreement:</u> 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 <u>Construction of Agreement:</u> 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 <u>Counterparts:</u> 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 **<u>Authority</u>**: 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 <u>Integration:</u> 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 <u>Interpretation of Conflicting Provisions:</u> 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.

### 16.0 SIGNATURE PAGE.

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

		CONTRACTOR
By:	Michael K. Derr	West Coast Diner Management, Inc.
Date:		Contractor's Business Name*
By:		DocuSigned by:
Date:	Department Head (if applicable)	By: <u>Anamarie Montes, Unif Operating Officer</u> 6C49C75 (Signature of Chair, President, or Vice-President) *
By:		Chief Operating officer
Date:	Board of Supervisors (if applicable)	Date: 6/5/2020   5:20 PM PDT
Approve	ed as to Form <sup>1</sup>	
By:	CIB	DocuSigned by:
Date:	07025F3AA36B4ACounty Counsel 6/9/2020   11:51 AM PDT	By: Kichard Pawlowski
Approve	ed as to Fiscal Provisions <sup>2</sup>	CFO, Treasurer or Asst. Treasure) * CFO
By:	Burcen Mousa	Name and Title
Date:		Date: 6/9/2020   11:40 AM PDT
Approve	ed as to Liability Provisions <sup>3</sup>	
By:		
2	Risk Management	
Date:		
County	Board of Supervisors' Agreement Number:	, approved on (date):

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

<sup>1</sup>Approval by County Counsel is required

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

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



Agreement ID:

### AMENDMENT #1 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And WEST COAST DINER MANAGEMENT, INC. TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED PROGRAM

Mya 1050 5244

THIS AMENDMENT #1 is entered into this 1st day of August 2020 by and between the County of Monterey (herein called "County") and <u>West Coast Diner Management, Inc., dba Denny's</u> <u>Restaurant, Marina, CA</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the Great Plates Delivered program was originally scheduled to end on July 31, 2020;

WHEREAS, the State has extended the Great Plates Delivered program through at least August 9, 2020 and is expected to extend it through October 31, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$125,000.00</u>.
    - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 1, 2020 to October 31, 2020, 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 with COUNT signing last, and CONTRACTOR may not continue working beyond July 31, 2020 before County signs Amendment #1 to the Agreement.

Section 9.03 Automobile Insurance Thresholds -

The amount payable under this Amendment triggers the higher business automobile liability insurance requirements of this section. The CONTRACTOR shall provide evidence that they have insurance covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Amendment, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

All other terms and conditions of the Standard Agreement and its Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Anamaric Montes, Unif Operating Officer Anamaric Montes, Chief Operating Officer	By: Michael K. Dur Michael R. Der
Date:	Date:
	Approved as to form and legality
By: Richard Pawlowski Richard Pawlowski	By: Marina Pantdunko Marina Pantchenko
Date: 8/11/2020   3:59 PM PDT	Date:
	Reviewed as to fiscal provisions:
By:	By: Gary Gibony Gary Sibony
Date:	Date:

### AMENDMENT #2 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And WEST COAST DINER MANAGEMENT, INC. TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #2 is entered into this 12<sup>th</sup> day of October 2020 by and between the County of Monterey (herein called "County") and <u>West Coast Diner Management, Inc.</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 11, 2020 and Amendment #1 on August 12, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on October 10, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 20, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$197,000.00</u>.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 1, 2020 to December 20, 2020, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond October 9, 2020 before County signs Amendment #2 to the Agreement.

- Exhibit A SCOPE OF SERVICES/PAGMENT PROVISIONS shall be deleted and replaced by Exhibit AA, attached.
- Exhibit B-1 INVOICE SAMPLE FOR THE AAA CARES MEALS shall be added and attached to and made part of this Amendment.

All other terms and conditions of the Standard Agreement, Amendment #1, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #2 to the Agreement on the dates set forth below.

### CONTRACTOR

DocuSigned by:

.

anamaric Montes By:

Anamarie Montes, Chief Operating Officer

Date: 10/19/2020 | 2:53 PM PDT

### COUNTY OF MONTEREY

DocuSigned by: Debra Wilson, Contracts/Purchasing Supervisor By: Michael R. Derr

Date: 10/22/2020 | 3:44 PM PDT

Approved as to form and legality

DocuSigned by: Richard Pawlowski By: 78C43 Richard Pawlowski, CFO Date: \_\_\_\_\_

By:

Date:

DocuSigned by: Marina Pantchenko By: Marina Pantchenko

Date: 10/22/2020 | 2:54 PM PDT

Reviewed as to fiscal provisions:

DocuSigned by: Gary Giboney Bv: Gary Giboney 10/22/2020 | 2:57 PM PDT Date:

#### SCOPE OF SERVICES/PAYMENT PROVISIONS

### WEST COAST DINER MANAGEMENT, INC. (DENNY'S, MARINA) HOME DELIVERED MEAL SERVICES JUNE 1, 2020 – DECEMBER 20, 2020

### I. CONTACT INFORMATION

CONTRACTOR – Copy All Contacts on ALL CommunicationsContact Person &Neal WilliamsonDisaster PreparednessDirector of Operations(916) 384-6299

Zaira Norzagaray Unit Manager 110 Reservation Rd. Marina, CA 93933 (831) 384-2854 8043@ourdennys.com

Ricardo Balderas District Manager (831) 207-7296 <u>Ricardo.balderas@ourdennys.com</u>

Neal.Williamson@JIBManagement.com

COUNTY Contract Manager:

Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services 1000 South Main Street, Suite 301 Salinas, CA 93901 (831) 796-3530 murrayphillipsk@co.monterey.ca.us

### II. OFFICE AND SITE LOCATIONS

Administrative Offices: 3550 Mowry Ave. #301 Fremont, CA 94538 **Restaurant Location:** 110 Reservation Rd. Marina, CA 93933

### EXHIBIT AA

### III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of two programs to provide meals to seniors and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Two restaurant meals for seniors programs:
  - i. Great Plates Delivered, and;
  - ii. AAA CARES Meals.

### b. Meal Standards and Menu Planning

- i. Must be able to accommodate dietary restrictions for clients.
- ii. Breakfast
  - Low in sodium
  - No sugary drinks (<24 calories / 8oz)
  - Fruit juice must be 100% fruit based
- iii. Lunch and Dinner
  - Low in sodium
  - Piece of fresh fruit or vegetable on each
  - No sugary drinks (<24 calories / 8oz)
  - Fruit juice must be 100% fruit based
- c. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.

### EXHIBIT AA

- d. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.
  - iii. Delivery Process:
    - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
    - 2. Observe the front door to ensure meals are picked up by the Client.
    - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
    - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
    - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
    - 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
    - 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- e. Delivery Service.

  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- f. Referral and Reservation System
  - i. COUNTY Contract Manager or designee shall email CONTRACTOR two weekly lists of eligible Clients (one for each Program):.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

Denny's Marina Amendment #2 Exhibit AA

Page 3 of 5

October 12, 2020 – December 20, 2020 Agreement ID: COVID-19, GPD003

### V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain details that include:
  - i. Verification that Client will be home during the delivery period.
    - ii. Verification that meals are wanted by the Client.
      - 1. A record of which meal(s) will not be delivered if such a request is made by Client.
- b. Restaurants will complete the two provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoices (see EXHIBIT B and EXHIBIT C for Sample Invoices) and Weekly Delivery Tracking Sheet (see EXHIBIT D for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.
- c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

### VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

### VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered and AAA CARES Meals Programs for the entire contract period of June 1, 2020 through December 20, 2020 shall not exceed one hundred ninety-seven thousand dollars (\$197,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Visa Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

### VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

(remainder of this page intentionally left blank)

# **EXHIBIT B-1**

Denny's Restaurant -Marina

## INVOICE SAMPLE

### AAA CARES Meals MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: October 12, 2020 - Dec. 20, 2020 Week of:\_\_\_\_\_

Allowed Categories	Budge	t per Meal	Number of Meals/Deliveries	s	Total
BREAKFASTS	\$	15	0	\$	
LUNCHES	\$	17	0	\$	-
DINNERS	\$	28	0	\$	
Weekly delivery tracking sheet must accompany this invoice.					
DELIVERIES	\$	6	0	\$	
No more than one delivery per day per customer					
If using outside delivery service, must attached invoice that covers this week of service.					
Total Invoice	\$	66		\$	

### CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

### AMENDMENT #3 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And WEST COAST DINER MANAGEMENT, INC. TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #3 is entered into this 9<sup>th</sup> day of December 2020 by and between the County of Monterey (herein called "County") and <u>West Coast Diner Management, Inc., dba Denny's Restaurant, Marina CA</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 11, 2020, Amendment #1 on August 12, 2020, and Amendment #2 on October 22, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on January 7, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 30, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$310,000.00</u>.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from <u>June 1, 2020</u> to <u>January 7, 2021</u>, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond December 20, 2020 before County signs Amendment #3 to the Agreement.

All other terms and conditions of the Standard Agreement, Amendment #1, Amendment #2, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #3 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: <u>Inamarie Montes</u> Anamarie Montes, Chief Operating Officer	By: Debra Wilson, Contracts/Purchasing Supervisor Debra R. Wilson Contracts/Purchasing Supervisor
1/7/2021 Date:	1/14/2021 Date:
By: Richard Pawlowski 1/12/2021 Date:	Approved as to form and legality DocuSigned by: Marina fantdunko esseesF1502BD412 Marina Pantchenko 1/13/2021 Date:
	Reviewed as to fiscal provisions:
Ву:	By: <u>Gary Giboney</u> Gary Giboney 1/13/2021
Date:	Date:

### AMENDMENT #4 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY

### And

### WEST COAST DINNER MANAGEMENT, INC. TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #4 is entered into this 7<sup>th</sup> day of January 2021 by and between the County of Monterey (herein called "County") and <u>West Coast Diner Management, Inc., dba Denny's</u> <u>Restaurant, Marina CA</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 11, 2020, Amendment #1 on August 12, 2020, Amendment #2 on October 22, 2020, and Amendment #3 on January 14, 2021 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every thirty (30) days and is currently estimated to end on March 8, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through December 30, 2020;

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$412,236.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from June 1, 2020 to March 8, 2021, 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 with COUNTY signing last.

All other terms and conditions of the Original Standard Agreement, Amendment #1, Amendment #2, Amendment #3, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #4 to the Agreement on the dates set forth below.

By:
Contracts & Purchasing Officer
1/28/2021 Date:
Approved as to form and legality $By: \underbrace{Marina fantdunko}_{66EE0F16029D412}$ Marina Pantchenko $1/28/2021$ Date:

Reviewed as to fiscal provisions: By: <u>Gary Gibowy</u> 1/2 Gary Giboney 1/28/2021

### 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: Linda's Taqueria

(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:**

COVID-19 - For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch, and dinner to eligible households as directed by the County Department of Social Services.

### 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: $$^{50,000.00}$ 

### 3.0 TERM OF 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: Sample Invoice and Weekly Delivery Tracking Sheet

### 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 <u>TERMINATION:</u>

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 <u>not</u> 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 **<u>Qualifying Insurers:</u>** 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.

X 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.

P

<u>Agreement Over \$100,000 Business Automobile Liability Insurance</u>: 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.)

<u>Workers' Compensation Insurance</u>: 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 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 <u>Confidentiality:</u> 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 <u>County Records:</u> 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 <u>Maintenance of Records</u>: 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 <u>Access to and Audit of Records:</u> 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 <u>NOTICES:</u>

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:		
Kathleen Murray-Phillips Management Analyst	Nancy Mendoza Owner		
Name and Title	Name and Title		
1000 S. Main St., Suite 301 Salinas CA 93901	851 5th st., Suite F Gonzales CA 93926		
Address	Address		
831.796-3530	831.261-5184		
Phone:	Phone:		

# 15.0 MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest:</u> 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 <u>Amendment</u>: This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver:</u> 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 <u>Contractor:</u> 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 <u>Assignment and Subcontracting</u>: 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 <u>Successors and Assigns:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 <u>Governing Law:</u> This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 <u>Non-exclusive Agreement:</u> 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 <u>Counterparts:</u> 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 <u>Authority:</u> 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 <u>Integration</u>: 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 <u>Interpretation of Conflicting Provisions:</u> 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.

# 16.0 SIGNATURE PAGE.

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

	COUNTY OF MONTEREY	1	CONTRACTOR
By:	Debra Wilson, Contracts/Purchasing Supe	nuisor	Linda's Taqueria
Date:	6/8/2020   10:08 AM PDT		Contractor's Business Name*
By:			DocuSigned by:
Date:	Department Head (if applicable)	By:	ASBEF 10 (Spg frature of Chair, President, or Vice-President) *
By:			None
Date:	Board of Supervisors (if applicable)	Date:	6/6/2020   12:27 PM PDT
Approve	d as to Form <sup>1</sup>		
By:	and		
Date:	07025F3AA36B4ACounty Counsel 6/8/2020   9:29 AM PDT	By:	(Signature of Secretary, Asst. Secretary,
Approve	d as to Fiscal Provisions <sup>2</sup>		CFO, Treasurer or Asst. Treasure) *
By:	Burcu Mousa		Name and Title
Date:		Date	•
	d as to Liability Provisions <sup>3</sup>		
By:			
	Risk Management		
Date:		ļ	
Countv	Board of Supervisors' Agreement Number:		, approved on (date):

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

<sup>&</sup>lt;sup>3</sup>Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9



DS

6/8/2020 | 10:04 AM PDT

<sup>&</sup>lt;sup>1</sup>Approval by County Counsel is required

<sup>&</sup>lt;sup>2</sup>Approval by Auditor-Controller is required

MYA 1050 5122

# AMENDMENT #1 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And LINDA'S TAQUERIA TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED PROGRAM

THIS AMENDMENT #1 is entered into this 1st day of August 2020 by and between the County of Monterey (herein called "County") and Linda's Taqueria (herein called "CONTRACTOR").

WITEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the Great Plates Delivered program was originally scheduled to end on July 31, 2020;

WHEREAS, the State has extended the Great Plates Delivered program through at least August 9, 2020 and is expected to extend it through October 31, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$125,000.00</u>.
    - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 1, 2020 to October 31, 2020, 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 with COUNT signing last, and CONTRACTOR may not continue working beyond July 31, 2020 before County signs Amendment #1 to the Agreement.

Section 9.03 Automobile Insurance Thresholds -

The amount payable under this Amendment triggers the higher business automobile liability insurance requirements of this section. The CONTRACTOR shall provide evidence that they have insurance covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Amendment, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

All other terms and conditions of the Standard Agreement and its Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Nancy Mendora Nancy Mendora	By: Michael K. Durr
Date: 7/22/2020   4:07 PM PDT	Date:
	Approved as to form and legality
By:	By: Marina Partilunko Marina Partilunko
Date:	Date: 7/22/2020   6:10 PM PDT
	Reviewed as to fiscal provisions:
By:	By: Gary Giboury
Date:	Date: 7/22/2020   7:41 PM PDT

# 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: Main St. Bakery and Catering

(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:**

COVID-19 - For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch, and dinner to eligible households as directed by the County Department of Social Services.

#### 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:\$ 114,000.00

#### 3.0 TERM OF 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: Sample Invoice and Weekly Delivery Tracking Sheet

## 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 <u>TERMINATION:</u>

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 <u>not</u> 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 **<u>Qualifying Insurers:</u>** 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.
- х
- <u>Agreement Over \$100,000 Business Automobile Liability Insurance</u>: 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.

<u>Commercial general liability and automobile liability policies shall provide an</u> <u>endorsement naming the County of Monterey, its officers, agents, and employees as</u> <u>Additional Insureds</u> with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, <u>and shall further provide that such</u> <u>insurance is primary insurance to any insurance or self-insurance maintained by the</u> <u>County and that the insurance of the Additional Insureds shall not be called upon to</u> <u>contribute to a loss covered by the CONTRACTOR'S insurance.</u> 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 <u>Confidentiality:</u> 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 <u>County Records:</u> 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 <u>Maintenance of Records:</u> 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 <u>Access to and Audit of Records:</u> 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 <u>NOTICES:</u>

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:		
Kathleen Murray-Phillips, Management Analyst	Luz Cedillo		
Name and Title	Name and Title		
1000 S. Main St., Suite 301 Salinas, CA 93901	711 S. Main St Salinas CA 93901		
Address	Address		
831.796-3530	831.262-5977		
Phone:	Phone:		

# 15.0 MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest:</u> 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 <u>Amendment</u>: This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver:</u> 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 <u>Contractor:</u> 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 <u>Assignment and Subcontracting:</u> 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 <u>Successors and Assigns:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 <u>Governing Law:</u> This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 <u>Non-exclusive Agreement</u>: 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 <u>Construction of Agreement:</u> 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 <u>Counterparts:</u> 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 <u>Authority:</u> 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 <u>Integration:</u> 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 <u>Interpretation of Conflicting Provisions:</u> 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.

# 16.0 <u>SIGNATURE PAGE</u>.

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

	COUNTY OF MONTEREY	CONTRACTOR	
By:	Michael R. Derr	Main St. Bakery and Catering	
Date:	6/5/2020 6:04 PM PDT	Contractor's Business Na	me*
By:		DocuSigned by:	
Date:	Department Head (if applicable)	By: Lug Celillo - Owner 5B80B15(Signature of Chair, Presiden Vice-President) *	t, or
y:		luz Cedillo, president	
Date:	Board of Supervisors (if applicable)	Date: 6/5/2020   7:34 PM EDT	
pprovec	as to Form <sup>1</sup>		
у:	Anne Brereton, Deputy County Counsel		
ate:	6/5/2020   5:02 PM PDT	By:(Signature of Secretary, Asst. Sec	retary,
pprovec	l as to Fiscal Provisions <sup>2</sup>	CFO, Treasurer or Asst. Treasur	
y:	DocuSigned by: Burcu Mousa	Name and Title	
ate:		Date:	
pproved	as to Liability Provisions <sup>3</sup>		
y:			
Date:	Risk Management		
County	Board of Supervisors' Agreement Number:	, approved on (date):	

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

<sup>1</sup>Approval by County Counsel is required <sup>2</sup>Approval by Auditor-Controller is required

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



6/5/2020 | 5:58 PM PDT

Agreement ID:

MyA 1050 5146 8/20/2020

## AMENDMENT #1 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And MAIN STREET BAKERY & CATERING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED PROGRAM

THIS AMENDMENT #1 is entered into this 1st day of August 2020 by and between the County of Monterey (herein called "County") and <u>Main Street Bakery & Catering</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the Great Plates Delivered program was originally scheduled to end on July 31, 2020;

WHEREAS, the State has extended the Great Plates Delivered program through at least August 9, 2020 and is expected to extend it through October 31, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$264,000.00.
    - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 1, 2020 to October 31, 2020, 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 with COUNT signing last, and CONTRACTOR may not continue working beyond July 31, 2020 before County signs Amendment #1 to the Agreement.

Section 9.03 Automobile Insurance Thresholds -

The amount payable under this Amendment triggers the higher business automobile liability insurance requirements of this section. The CONTRACTOR shall provide evidence that they have insurance covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Amendment, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

All other terms and conditions of the Standard Agreement and its Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Ung Udills - Owner	By: Michael K. Dur Michael K. Dur
Date: 7/22/2020   2:30 PM EDT	Date: 7/22/2020   7:50 PM PDT
	Approved as to form and legality
Ву:	By: Marina Pantilunko Marina Pantilunko Marina Pantinenko
Date:	Date:
	Reviewed as to fiscal provisions:
Ву:	By: Gary Giboney
Date:	Date:

# AMENDMENT #2 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And MAIN STREET BAKERY & CATERING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #2 is entered into this 12<sup>th</sup> day of October 2020 by and between the County of Monterey (herein called "County") and <u>Main Street Bakery & Catering</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 5, 2020 and Amendment #1 on July 22, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on October 10, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 20, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- 1. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$340,000.00</u>.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 5, 2020 to December 20, 2020, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond October 9, 2020 before County signs Amendment #2 to the Agreement.

- Exhibit A SCOPE OF SERVICES/PAGMENT PROVISIONS shall be deleted and replaced by Exhibit AA, attached.
- Exhibit B-1 INVOICE SAMPLE FOR THE AAA CARES MEALS shall be added and attached to and made part of this Amendment.

All other terms and conditions of the Standard Agreement, Amendment #1, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 5, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #2 to the Agreement on the dates set forth below.

CONTRAC	CTOR
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DocuSigned by: luz Cedillo By:

.

Luz Cedillo, Owner

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

By: \_\_\_\_\_

Date:

By: \_\_\_\_\_

Date:

#### COUNTY OF MONTEREY

By: Michael K. Dur Michael R. Derr

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

Approved as to form and legality

DocuSigned by: Marina Pantchenko Bv: Marina Pantchenko

Date: 10/9/2020 | 10:24 AM PDT

Reviewed as to fiscal provisions:

DocuSigned by: Gary Giboney Bv: Gary Giboney Date: 10/9/2020 | 10:25 AM PDT

Agreement ID: COVID-19, GPD005 Amendment #2

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#### SCOPE OF SERVICES/PAYMENT PROVISIONS

#### MAIN STREET BAKERY & CATERING TO PROVIDE HOME DELIVERY MEAL SERVICES JUNE 5, 2020 – DECEMBER 20, 2020

#### I. CONTACT INFORMATION

CONTRACTOR: Contact Person & Disaster Preparedness	Luz Cedillo, Owner 711 S. Main St. Salinas, CA 93901 (831) 262-5977 mainstreetbakeryandcatering@gmail.com
COUNTY Contract Manager:	Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services 1000 South Main Street, Suite 301 Salinas, CA 93901 (831) 796-3530 <u>murrayphillipsk@co.monterey.ca.us</u>

#### II. OFFICE AND SITE LOCATIONS

Administrative Offices/Restaurant Location: 711 S. Main St. Salinas, CA 93901

#### III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of two programs to provide meals to seniors and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Two restaurant meals for seniors programs:
  - i. Great Plates Delivered, and;
  - ii. AAA CARES Meals.
- b. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- c. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- d. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.

# EXHIBIT AA

- iii. Delivery Process:
  - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
  - 2. Observe the front door to ensure meals are picked up by the Client.
  - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
  - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
  - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
  - 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
  - 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- e. Delivery Service.
  - i. Is CONTRACTOR using a delivery service (circle) YES or NO 1. If yes, what is name of service:
  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- f. Referral and Reservation System
  - i. COUNTY Contract Manager or designee shall email CONTRACTOR two weekly lists of eligible Clients (one for each Program):.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

# V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain details that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that meals are wanted by the Client.
    - 1. A record of which meal(s) will not be delivered if such a request is made by Client.
- b. Restaurants will complete the two provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoices (see EXHIBIT B and

## EXHIBIT AA

EXHIBIT C for Sample Invoices) and Weekly Delivery Tracking Sheet (see EXHIBIT D for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.

c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

#### VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

#### VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered and AAA CARES Meals Programs for the entire contract period of June 1, 2020 through December 20, 2020 shall not exceed three hundred and forty thousand dollars (\$340,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Visa Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

#### VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

# **EXHIBIT B-1**

# Main Street Bakery & Catering

# INVOICE SAMPLE

# AAA CARES Meals MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: October 12, 2020 - Dec. 20, 2020 Week of:\_\_\_\_\_

Allowed Categories	Budge	t per Meal	Number of Meals/Deliveries	Total
BREAKFASTS	\$	15	0	\$ 
LUNCHES	\$	17	0	\$ <b>_</b>
DINNERS	\$	28	0	\$ 
Weekly delivery tracking sheet must accompany this invoice.			-	
DELIVERIES	\$	6	0	\$ 
No more than one delivery per day per customer				
<i>If using outside delivery service, must attached invoice that covers this week of service.</i>				
Total Invoice	\$	66		\$ 

#### CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

# AMENDMENT #3 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And MAIN STREET BAKERY & CATERING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #3 is entered into this 21<sup>st</sup> day of December 2020 by and between the County of Monterey (herein called "County") and <u>Main Street Bakery & Catering</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 5, 2020, Amendment #1 on July 22, 2020, and Amendment #2 on October 9, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on January 7, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 30, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$495,000.00</u>.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 5, 2020 to January 7, 2021, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond December 20, 2020 before County signs Amendment #3 to the Agreement.

All other terms and conditions of the Standard Agreement, Amendment #1, Amendment #2, and all Exhibits remain unchanged.

Agreement ID: COVID-19, GPD005 Amendment #3 II. A copy of this AMENDMENT #3 shall be attached to the original Standard Agreement, dated June 5, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #3 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Luz Cedillo, Owner	By: Debra Wilson, Contracts/Purchasing Supervisor Debra R. Wilson Contracts/Purchasing Supervisor
12/21/2020 Date:	12/22/2020 Date:
	Approved as to form and legality
By:	By: Marina Pantchenko
Date:	12/22/2020 Date:
	Reviewed as to fiscal provisions:
By:	By: <u>Cary Giboney</u> Gary Giboney
Date:	12/22/2020 Date:

Agreement ID: COVID-19, GPD005 Amendment #3

# AMENDMENT #4 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And

# MAIN STREET BAKERY & CATERING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #4 is entered into this 7<sup>th</sup> day of January 2021 by and between the County of Monterey (herein called "County") and <u>Main Street Bakery & Catering</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 5, 2020, Amendment #1 on July 22, 2020, Amendment #2 on October 9, 2020, and Amendment #3 on December 22, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every thirty (30) days and is currently estimated to end on March 8, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through December 30, 2020;

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$646,028.00.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from <u>June 1, 2020</u> to <u>March 8, 2021</u>, 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 with COUNTY signing last.

All other terms and conditions of the Original Standard Agreement, Amendment #1, Amendment #2, Amendment #3, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #4 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY	
By: <u></u>	By:	
1/20/2021 Date:	Contracts & Purchasing Officer Date:	
	Approved as to form and legality	
By:	By:B	
Date:	1/22/2021 Date:	
	Reviewed as to fiscal provisions: By: <u>Gary Gibowy</u> Gary Giboney 1/22/2021	
	Date:	

Agreement ID: COVID-19, GPD005 Amendment #4

# 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: Mezzaluna Pasteria

#### (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:**

COVID-19 - For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch and dinner to eligible households as directed by the Department of Social

#### 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:\$ 95,000.00

#### 3.0 TERM OF AGREEMENT:

- 3.01 The term of this Agreement is from September 28, 2020 to December 10, 2020, 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: Sample Invoice & Weekly Delivery Tracking Sheet

# 5.0 <u>PERFORMANCE STANDARDS:</u>

- 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 <u>TERMINATION:</u>

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 <u>not</u> 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:

<u>Commercial General Liability Insurance</u>: 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.

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<u>Agreement Over \$100,000 Business Automobile Liability Insurance</u>: 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.)

<u>Workers' Compensation Insurance</u>: 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.)

**<u>Professional Liability Insurance</u>**: 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 <u>Confidentiality:</u> 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 <u>County Records:</u> 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 <u>Maintenance of Records:</u> 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 <u>Access to and Audit of Records:</u> 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.

6 of 10

# 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:

Kathleen Murray-Phillips

Name and Title 1000 South Main St., Suite 301 Salinas, CA 93901

Address

831-796-3550

Phone:

FOR CONTRACTOR: Soerke Peters Owner

Name and Title 1188 Forest Avenue Pacific Grove, CA 93950

Address

310-971-7567

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 <u>Amendment:</u> This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver:</u> 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 <u>Contractor:</u> 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 <u>Assignment and Subcontracting:</u> 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 <u>Successors and Assigns:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: 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 <u>Non-exclusive Agreement:</u> 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 <u>Construction of Agreement:</u> 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 <u>Counterparts:</u> 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 <u>Authority:</u> 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 <u>Integration:</u> 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 <u>Interpretation of Conflicting Provisions:</u> 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.

# 16.0 SIGNATURE PAGE.

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

By:	Michael K. Derr	CONTRACTOR
y.	Contracts/Purchasing Officer 9/24/2020   2:19 PM PDT	Mezzaluna Pasteria
Date:	9/24/2020   2:19 PM PDT	Contractor's Business Name*
y:		Source Peters
ate:	Department Head (if applicable)	By: (Signature of Chair, President, or Vice-President) *
y:		Soerke Peters PRESIDENT
ate:	Board of Supervisors (if applicable)	Date: 9/24/2020   10:24 AM PDT
pprove	ed as the Engrandur.	
<i>r</i> :	Marina Pantchenko	
ate:	9/24/2020   1:50 PM PDT	By:(Signature of Secretary, Asst. Secretary,
pprove	ed as to Eiscal Provisions <sup>2</sup>	CFO, Treasurer or Asst. Treasure) *
r <u>:</u>	Gary Giboney	Name and Title
ate:	Auditor/Controller 9/24/2020   2:15 PM PDT	Date:
pprove	ed as to Liability Provisions <sup>3</sup>	
y:		
ate:	Risk Management	
Count	v Board of Supervisors' Agreement Number:	, approved on (date):

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

<sup>&</sup>lt;sup>1</sup>Approval by County Counsel is required

<sup>&</sup>lt;sup>2</sup>Approval by Auditor-Controller is required

<sup>&</sup>lt;sup>3</sup>Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

#### EXHIBIT A

#### SCOPE OF SERVICES/PAYMENT PROVISIONS

#### MEZZALUNA PASTERIA RESTAURANT MEALS FOR SENIORS SEPTEMBER 28, 2020 – DECEMBER 10, 2020

#### I. CONTACT INFORMATION

CONTRACTOR Contact Person & Disaster Preparedness	Soerke Peters, Owner 1188 Forest Avenue Pacific Grove, CA 93950 (310) 971-7567 <u>chefischef@gmail.com</u>
COUNTY Contract Manager:	Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services
	1000 South Main Street, Suite 301 Salinas, CA 93901 (831) 796-3530 <u>murrayphillipsk@co.monterey.ca.us</u>

#### II. OFFICE AND SITE LOCATIONS

**Business and Restaurant Location:** 1188 Forest Avenue Pacific Grove, CA 93950 (831) 372-5325

#### **III. COMPLIANCE REQUIREMENTS**

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# EXHIBIT A

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of two programs to provide meals to seniors and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Two restaurant meals for seniors programs:
  - i. Great Plates Delivered, and;
  - ii. AAA CARES Meals.
- b. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- c. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- d. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.
  - iii. Delivery Process:
    - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
    - 2. Observe the front door to ensure meals are picked up by the Client.
    - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.

- 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
- 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
- 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
- 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- e. Delivery Service.

  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- f. Referral and Reservation System
  - i. COUNTY Contract Manager or designee shall email CONTRACTOR two weekly lists of eligible Clients (one for each Program):.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

## V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain details that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that meals are wanted by the Client.
    - 1. A record of which meal(s) will not be delivered if such a request is made by Client.
- b. Restaurants will complete the two provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoices (see EXHIBIT B and EXHIBIT C for Sample Invoices) and Weekly Delivery Tracking Sheet (see EXHIBIT D for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.
- c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

## VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

## VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered Program for the period of September 28, 2020 through December 10, 2020 shall not exceed ninety five thousand dollars (\$95,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Visa Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

## VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

(remainder of this page intentionally left blank)

**EXHIBIT B** 

# Mezzaluna Pasteria

# **INVOICE SAMPLE**

# Great Plates Delivered Program MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: Sept. 28, 2020 - Dec. 10, 2020 Week of:\_\_\_\_\_

Allowed Categories	Budget per Meal		Number of Meals/Deliveries	Total		
BREAKFASTS	\$	15	0	\$ 		
LUNCHES	\$	17	0	\$ 		
DINNERS	\$	28	0	\$ -		
Weekly delivery tracking sheet must accompany this invoice.						
DELIVERIES per customer	\$	6	0	\$ 		
If using outside delivery service, must attached invoice that covers this week of service.						
Total Invoice	\$	66		\$ 		

# CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

**EXHIBIT C** 

Mezzaluna Pasteria

# **INVOICE SAMPLE**

# AAA CARES Meals

# MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: Sept. 28, 2020 - Dec. 10, 2020 Week of:\_\_\_\_\_

Allowed Categories	Budget per Meal		Number of Meals/Deliveries	Total		
BREAKFASTS	\$	15	0	\$ 		
LUNCHES	\$	17	0	\$ 		
DINNERS	\$	28	0	\$ 		
Weekly delivery tracking sheet must accompany this invoice.						
DELIVERIES per customer	\$	6	0	\$ -		
If using outside delivery service, must attached invoice that covers this week of service.	-					
Total Invoice	\$	66		\$ 		

# CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

# Restaurant NAME Program Name

Participant Listing and Tracking Sept 14 thru Sept 20, 2020

# **Restaurant Participant Listing Sample**

R = Reservations for next day meals ALWAYS BE SURE TO ASK PARTICIPANT IF THEY WANT ALL THE MEALS FOR THE NEXT DAY D = Check for each meal delivered

Participant Name Delivery address/phone	Mo	akfast nday /14	Mor	nch Iday 14	Mon	ner Iday 14	Brea Tues 9/	day	Lun Tues 9/	day	Dini Tues 9/1	day
and special instructions	R	D	R	D	R	D	R	D	R	D	R	D
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												
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Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												

# AMENDMENT #1 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And MEZZALUNA PASTERIA TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #1 is entered into this 10<sup>th</sup> day of December 2020 by and between the County of Monterey (herein called "County") and <u>Mezzaluna Pasteria</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on September 24, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every 30 days and is currently scheduled to end on January 7, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 30, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$255,000.00</u>.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from September 28, 2020 to January 7, 2021, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond December 10, 2020 before County signs Amendment #1 to the Agreement.

All other terms and conditions of the Original Standard Agreement and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated September 28, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY			
By: <u>Sourke feters</u> Soerke Peters, Owner	By: Debra Wilson, Contracts/Purchasing Supervisor Debra R. Wilson Contracts/Purchasing Supervisor			
Date:	12/16/2020 Date:			
	Approved as to form and legality			
Ву:	By:By			
Date:	12/16/2020 Date:			
	Reviewed as to fiscal provisions:			
Ву:	By: <u></u>			
Date:	12/16/2020 Date:			

Agreement ID: COVID-19, GPD010 Amendment #1

# AMENDMENT #2 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And MEZZALUNA PASTERIA TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #2 is entered into this 7<sup>th</sup> day of January 2021 by and between the County of Monterey (herein called "County") and <u>Mezzaluna Pasteria</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on September 24, 2020 and Amendment #1 December 16, 2020 on for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every thirty (30) days and is currently estimated to end on March 8, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through December 30, 2020;

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of **543,486.00**.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from <u>June 1, 2020</u> to <u>March 8, 2021</u>, 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 with COUNTY signing last.

All other terms and conditions of the Original Standard Agreement and Amendment #1, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #2 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY			
By: Source futurs Source futurs Source Peters, Owner	By:			
1/22/2021 Date:	Contracts & Purchasing Officer Date:			
	Approved as to form and legality			
Ву:	By: Marina Pantchenko			
Date:	1/26/2021 Date:			
	Reviewed asstratiscal provisions: By:			
	Dy: <u>C Deseterectos449</u> Gary Giboney Date: <u>1/26/2021</u>			

## 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: Monterey Coast Brewing

(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:**

For the duration of the Great Plates Delivered Program, one-time per day delivery of breakfast, lunch, and dinner to households eligible for the Great Plates Delivered program.

#### 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:s \$75,000.00

#### 3.0 TERM OF 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: Sample Invoice & weekly Delivery Tracking Sheet

## 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 <u>TERMINATION:</u>

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 <u>not</u> 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 <u>Oualifying Insurers:</u> 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 X 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 Agreement ID: COVID-19 - GPD006

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 <u>Confidentiality:</u> 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 <u>County Records:</u> 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 <u>Maintenance of Records:</u> 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:	FOR CONTRACTOR:				
Kathleen Murray-Phillips Management Analyst	Lucy Chessire Secretary				
Name and Title	Name and Title				
1000 S. Main St., Suite 301 Salinas, CA 93901 MurrayPhillipsK@co.monterey.ca.us	165 Main St. Salinas, CA 93901 MCBrewing@comcast.net Address				
Address					
831.796-3530	831.758-2337 (Restaurant) / 831.809-4695 (C)				
Phone:	Phone:				

#### 15.0 MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest:</u> 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 <u>Amendment</u>: This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver:</u> 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 <u>Contractor</u>: 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 <u>Assignment and Subcontracting:</u> 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 <u>Successors and Assigns:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 <u>Governing Law:</u> This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 <u>Non-exclusive Agreement:</u> 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 <u>Construction of Agreement:</u> 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 <u>Counterparts</u>: 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 <u>Authority:</u> 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.

## 16.0 SIGNATURE PAGE.

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

	COLINTY OF MONTEREY		CONTRACTOR
By:	Michael K. Derr		Monterey Coast Brewing
Date:	6/16/2020 10:59 AM PDT		Contractor's Business Name*
By:	Department Head (if applicable)	By:	CAA L
Date:		Dy.	-39B52CE(Signature of Chair, President, or Vice-President) *
By:			President
Date:	Board of Supervisors (if applicable)	Date:	6/15/2020   12:39 PM PDT
Approved	as to Form <sup>1</sup>		
By:	Anne Breveton, Deputy County Coursel		DocuSigned by:
Date:		By:	3985 Sinnaume of Secretary, Asst. Secretary.
Approved	as to Fiscal Provisions <sup>2</sup>		CFO, Treasurer or Asst. Treasure) * Lucy Chesshire Asst Secretary
By:	Burcu Mousa		Name and Title
Date:	6/16/2020   10:54 AM PDT	Date:	6/11/2020   7:42 PM PDT
Approve	d as to Liability Provisions <sup>3</sup>		
By:			
Date:	Risk Management		
County	Board of Supervisors' Agreement Number:		_, approved on (date):

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

2:49 PM PDT

<sup>1</sup>Approval by County Counsel is required

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

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

Agreement ID:

#### MONTEREY COAST BREWING GREAT PLATES DELIVERED PROGRAM JUNE 1, 2020 – JULY 31, 2020

#### I. CONTACT INFORMATION

CONTRACTOR Contact Person & Disaster Preparedness	Lucy Chesshire Secretary 165 Main St. Salinas, CA 93901 (831) 758-2337 MCBrewing@Comcast.net
COUNTY Contract Manager:	Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services 1000 South Main Street Suite 301 Salinas, CA 93901 (831) 796-3530 Fax: (831) 755-8477 murrayphillipsk@co.monterey.ca.us

## **II. OFFICE AND SITE LOCATIONS**

Administrative Offices:	Restaurant Location(s):
165 Main St.	165 Main St.
Salinas, CA 93901	Salinas, CA 93901

#### **III. COMPLIANCE REQUIREMENTS**

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]

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- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting) CONTRACTOR shall follow all requirements of the Great Plates Program and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- iii. Lunch and Dinner
  - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- b. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
- iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- c. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - I. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.
- iii. Delivery Process:
  - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
  - 2. Observe the front door to ensure meals are picked up by the Client.
  - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
  - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
  - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
  - 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.

- 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- d. Delivery Service.
  - i. Is CONTRACTOR using a delivery service (circle) ¥ES or NO
     1. If yes, what is name of service: \_\_\_\_\_\_
  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- e. Referral and Reservation System
  - i. COUNTY Contract Manager shall email CONTRACTOR a weekly list of eligible Clients.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

#### V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain records that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that all three meals are wanted by the Client.
    - 1. A record of which meal will not be delivered if such a request is made by Client.
- b. Restaurants will complete the provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoice (see EXHIBIT B for Sample Invoice) and Weekly Delivery Tracking Sheet (see EXHIBIT C for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.
- c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

#### VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

#### VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six

dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered Program for the period June 1, 2020 through July 31, 2020 shall not exceed fifty thousand dollars (\$50,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Visa Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

#### VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

(remainder of this page intentionally left blank)

Page 4 of 4

EXHIBIT B

Monterey Coast Brewing

# **INVOICE SAMPLE**

# **Great Plates Delivered Program** MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: June 1, 2020 - July 31, 2020 Week Ending:

Allowed Categories	Budget per Meal		Number of Meals/Deliveries	Total	
BREAKFASTS	\$	15	0	\$	
LUNCHES	\$	17	0	\$	
DINNERS	\$	28	0	\$	
Weekly delivery tracking sheet must accompany this invoice.					
DELIVERIES per customer	\$	6	0	\$	
If using outside delivery service, must attached invoice that covers this week of service.					
Total Invoice	\$	66		\$	

#### CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

# EXHIBIT C

# Monterey Coast Brewing

# Great Plates Delivered Program MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Weekly D	elivery)	Tracking	Sheet
Week of:			

Client Number

Breakfast Lunch Dinner Delivery Date Delivered Delivered Stops

Column Total

0

0

0

0

# AMENDMENT #1 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And

# MONTEREY COAST BREWING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED PROGRAM

THIS AMENDMENT #1 is entered into this 1st day of August 2020 by and between the County of Monterey (herein called "County") and <u>Monterey Coast Brewing</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are incligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the Great Plates Delivered program was originally scheduled to end on July 31, 2020;

WHEREAS, the State has extended the Great Plates Delivered program through at least August 9, 2020 and is expected to extend it through October 31, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$225,000.00</u>.
    - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 1, 2020 to October 31, 2020, 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 with COUNT signing last, and CONTRACTOR may not continue working beyond July 31, 2020 before County signs Amendment #1 to the Agreement.

Section 9.03 Automobile Insurance Thresholds -

The amount payable under this Amendment triggers the higher business automobile liability insurance requirements of this section. The CONTRACTOR shall provide evidence that they have insurance covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Amendment, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

All other terms and conditions of the Standard Agreement and its Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR

DocuSigned b Bv

charres Eroya, eeo

Date: 7/24/2020 | 7:47 AM PDT

# By:

Lucy Chessife, Treasurer

Date: 7/24/2020 | 10:22 AM PDT

Ву:\_\_\_\_\_

Date:

## COUNTY OF MONTEREY

Michael K. Derr By:

Date: 7/28/2020 | 9:52 AM PDT

Approved as to form and legality

-DocuSigned by: Marina Pantchunko Bv:

7/28/2020 | 9:19 AM PDT Date:

Reviewed as to fiscal provisions:

DocuSigned by: Gary Giboney By:

Date: 7/28/2020 | 9:22 AM PDT

# AMENDMENT #2 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And MONTEREY COAST BREWING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #2 is entered into this 12<sup>th</sup> day of October 2020 by and between the County of Monterey (herein called "County") and <u>Monterey Coast Brewing</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 16, 2020 and Amendment #1 on July 24, 2020 for the Great Plates Delivered Program (collectively referred to as the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on October 10, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 20, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$340,000.00</u>.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from **June 16, 2020** to **December 20, 2020**, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond October 9, 2020 before County signs Amendment #2 to the Agreement.
  - Exhibit A SCOPE OF SERVICES/PAGMENT PROVISIONS shall be deleted and replaced by Exhibit AA, attached.

Agreement ID: COVID-19, GPD006 Amendment #2 .

Exhibit B-1 – INVOICE SAMPLE FOR THE AAA CARES MEALS shall be added and attached to and made part of this Amendment.

All other terms and conditions of the Standard Agreement, Amendment #1, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 16, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #2 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By:	By: Michael R. Derr
Charles Lloyd, Owner/CEO	Michael R. Derr
11/3/2020 Date:	Date:
By: Lucy Chessire, Treasurer 11/3/2020	Approved as to form and legality By: Marina fautchunko <u>65EE69F1502BD412</u> Marina Pantchenko <u>11/4/2020</u> Date:
	Reviewed as to fiscal provisions:
Ву:	By: <u>Gary Giboney</u> Gary Giboney
Date:	Date:

#### SCOPE OF SERVICES/PAYMENT PROVISIONS

#### MONTEREY COAST BREWING HOME DELIVERED MEAL SERVICES JUNE 16, 2020 – DECEMBER 20, 2020

#### I. CONTACT INFORMATION

CONTRACTOR:	Lucy Chesshire, Secretary
Contact Person &	165 Main St.
Disaster Preparedness	Salinas, CA 93901
	(831) 758-2337 (restaurant)
	(831) 809-4695 (cell)
	MCBrewing@comcast.net
COUNTY Contract Manager:	Kathleen Murray-Phillips, Management Analyst
	Area Agency on Aging
	Department of Social Services
	1000 South Main Street, Suite 301
	Salinas, CA 93901
	(831) 796-3530
	murrayphillipsk@co.monterey.ca.us

#### II. OFFICE AND SITE LOCATIONS

Administrative Offices/Restaurant Location: 165 Main St. Salinas, CA 93901

#### III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of two programs to provide meals to seniors and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Two restaurant meals for seniors programs:
  - i. Great Plates Delivered, and;
  - ii. AAA CARES Meals.
- b. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- c. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- d. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.

# EXHIBIT AA

- iii. Delivery Process:
  - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
  - 2. Observe the front door to ensure meals are picked up by the Client.
  - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
  - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
  - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
  - 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
  - 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- e. Delivery Service.
  - i. Is CONTRACTOR using a delivery service (circle) YES of NO 1. If yes, what is name of service:
  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- f. Referral and Reservation System
  - i. COUNTY Contract Manager or designee shall email CONTRACTOR two weekly lists of eligible Clients (one for each Program):.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

# V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain details that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that meals are wanted by the Client.
    - 1. A record of which meal(s) will not be delivered if such a request is made by Client.
- b. Restaurants will complete the two provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoices (see EXHIBIT B and

#### EXHIBIT AA

EXHIBIT C for Sample Invoices) and Weekly Delivery Tracking Sheet (see EXHIBIT D for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.

c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

#### VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

#### VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Γ	Breakfast	Lunch	Dinner	Delivery	Daily Total
	\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered and AAA CARES Meals Programs for the entire contract period of June 1, 2020 through December 20, 2020 shall not exceed three hundred and forty thousand dollars (\$340,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Visa Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

#### VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

# **EXHIBIT B-1**

Monterey Coast Brewing

# INVOICE SAMPLE

## AAA CARES Meals MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: October 12, 2020 - Dec. 20, 2020 Week of:\_\_\_\_\_

Allowed Categories	Budget per Meal		Number of Meals/Deliverie	es.	Total		
BREAKFASTS	\$	15	0	\$	-		
LUNCHES	\$	17	0	\$	-		
DINNERS	\$	28	0	\$	-		
Weekly delivery tracking sheet must accompany this invoice.							
DELIVERIES	\$	6	0	\$	-		
No more than one delivery per day per customer							
If using outside delivery service, must attached invoice that covers this week of service.							
Total Invoice	\$	66		\$	-		

#### CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

### AMENDMENT #3 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And MONTEREY COAST BREWING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #3 is entered into this 21<sup>st</sup> day of December 2020 by and between the County of Monterey (herein called "County") and <u>Monterey Coast Brewing</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 16, 2020, Amendment #1 on July 28, 2020, and Amendment #2 on November 4, 2020 for the Great Plates Delivered Program (collectively referred to as the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on January 7, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 30, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$450,000.00</u>.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 16, 2020 to January 7, 2021, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond December 20, 2020 before County signs Amendment #3 to the Agreement.

All other terms and conditions of the Standard Agreement, Amendment #1, Amendment #2, and all Exhibits remain unchanged.

Agreement ID: COVID-19, GPD006 Amendment #3 II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 16, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #3 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Charles Lloyd, Owner/CEO	By: Debra Wilson, Contracts/furchasing Supervisor Debra R. Wilson Contracts/Purchasing Supervisor
12/16/2020 Date:	12/22/2020 Date:
	Approved as to form and legality
By:	By: Marina Pantchenko
Date:	12/22/2020 Date:
	Reviewed as to fiscal provisions:
By:	By: <u>Gary Gibonuy</u> Gary Gibonuy Gary Giboney
Date:	Date:

### AMENDMENT #4 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And MONTEREY COAST BREWING TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #4 is entered into this 7<sup>th</sup> day of January 2021 by and between the County of Monterey (herein called "County") and <u>Monterey Coast Brewing</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement 'the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on June 16, 2020, Amendment #1 on July 28, 2020, Amendment #2 on November 4, 2020, and Amendment #3 on December 22, 2020 for the Great Plates Delivered Program (collectively referred to as the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every thirty (30) days and is currently estimated to end on March 8, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through December 30, 2020;

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$628,980.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from <u>June 1, 2020</u> to <u>March 8, 2021</u>, 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 with COUNTY signing last.

All other terms and conditions of the Standard Agreement, Amendment #1, Amendment #2, Amendment #3, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #4 to the Agreement on the dates set forth below.

CONTRACTOR

ocuSigned by: Charles loyd By: Charles Lloyd, Owner/CEO

1/20/2021 Date:\_\_\_\_

#### COUNTY OF MONTEREY

	DocuSigned by:
By:	Michael K. Derr
J	Michael Derr
	Contracts & Purchasing Officer
Date:	1/22/2021
Luiu.	

Approved as to form and legality

By: 39852CE722064AC

Lucy Chessire, Treasurer

1/20/2021 Date:\_\_\_\_\_

	DocuSigned by:
2	Marina Pantchunko
By:	65EE9F1502BD412

Marina Pantchenko

1/22/2021 Date:

Reviewed as to fiscal provisions:

Date: 1/22/2021

Agreement ID: COVID-19, GPD06 Amendment #4

### 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:

Norma's Family Restaurant

(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:

COVID -19 - For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch, and dinner to eligible households as directed by the Department of Social Services

#### 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:\$ 90,000.00

#### 3.0 TERM OF AGREEMENT:

- 3.01 The term of this Agreement is from September 28, 2020 to December 10, 2020, 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: Sample Invoice and Weekly Delivery Tracking Sheet

#### 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 <u>TERMINATION:</u>

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 <u>not</u> 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 **<u>Qualifying Insurers:</u>** 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.

- - <u>Agreement Under \$100,000 Business Automobile Liability Insurance</u>: 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 <u>Confidentiality:</u> 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 <u>County Records</u>: 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 <u>Maintenance of Records</u>: 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 <u>Access to and Audit of Records:</u> 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 <u>NOTICES:</u>

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: Kathleen Murray-Phillips

Name and Title 1000 South Main St., Suite 301 Salinas, CA 93901

Address

831-796-3550

Phone:

FOR CONTRACTOR: Daniel Boudreault Owner

> Name and Title 32 John Street Salinas, CA 93901

> > Address

(831) 682-6680

Phone:

#### 15.0 MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest:</u> 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 <u>Amendment</u>: 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 <u>Contractor</u>: 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 <u>Assignment and Subcontracting:</u> 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 <u>Successors and Assigns:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 <u>Governing Law:</u> This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 <u>Non-exclusive Agreement:</u> 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 <u>Construction of Agreement</u>: 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 <u>Counterparts:</u> 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 <u>Authority:</u> 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 <u>Integration:</u> 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.

#### 16.0 SIGNATURE PAGE.

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

Michael K. Durr 	Norma's Family Restaurant Contractor's Business Name* Daniel Boudrault
· · · · · · · · · · · · · · · · · · ·	Contractor's Business Name*
Department Head (if applicable)	- Dawiel Boudre ault
Department fread (if applicable)	By:
	EFD3AEF1468C491 (Signature of Chair, President, or Vice-President) *
	Daniel Boudreault President
Board of Supervisors (if applicable)	Name and Title Date: 9/23/2020   5:36 PM PDT
s-tociegrandy:	
Marina Pantchunko	
County Counsel /25/2020   4:53 PM PDT	By:(Signature of Secretary, Asst. Secretary,
s to Fiscal Provisions <sup>2</sup>	CFO, Treasurer or Asst. Treasure) *
Gary Giboney	Name and Title
Auditor/Controller 9/25/2020   5:05 PM PDT	Date:
s to Liability Provisions <sup>3</sup>	
Risk Management	
	s-to-Equaly: Marina fantdunko -BEEESF1502BD412 County Counsel /25/2020   4:53 PM PDT s to Fiscal Provisions <sup>2</sup> Gary Gibony -D3834BFEC1D8449 -D38449

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

<sup>&</sup>lt;sup>1</sup>Approval by County Counsel is required <sup>2</sup>Approval by Auditor-Controller is required

<sup>&</sup>lt;sup>3</sup>Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

#### SCOPE OF SERVICES/PAYMENT PROVISIONS

#### NORMA'S FAMILY RESTAURANT RESTAURANT MEALS FOR SENIORS SEPTEMBER 28, 2020 – DECEMBER 10, 2020

#### I. CONTACT INFORMATION

CONTRACTOR Contact Person & Disaster Preparedness	Daniel Boudreault, Owner 32 John Street Salinas, CA 93901 (831) 682-6680 Email: <u>my02888@gmail.com</u>
COUNTY Contract Manager:	Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services 1000 South Main Street Suite 301 Salinas, CA 93901 (831) 796-3530 Fax: (831) 755-8477 <u>murrayphillipsk@co.monterey.ca.us</u>

#### II. OFFICE AND SITE LOCATIONS

Administrative Office and Restaurant Location(s): 32 John Street Salinas, CA 93901 (831) 757-4030

#### III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of two programs to provide meals to seniors and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Two restaurant meals for seniors programs:
  - i. Great Plates Delivered, and;
  - ii. AAA CARES Meals.
- b. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- c. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- d. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.
  - iii. Delivery Process:
    - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
    - 2. Observe the front door to ensure meals are picked up by the Client.
    - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.

- 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
- 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
- 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
- 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- e. Delivery Service.
  - i. Is CONTRACTOR using a delivery service (circle) YES or NO
    1. If yes, what is name of service: \_\_\_\_\_\_
  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- f. Referral and Reservation System
  - i. COUNTY Contract Manager or designee shall email CONTRACTOR two weekly lists of eligible Clients (one for each Program):.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

#### V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain details that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that meals are wanted by the Client.
    - 1. A record of which meal(s) will not be delivered if such a request is made by Client.
- b. Restaurants will complete the two provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoices (see EXHIBIT B and EXHIBIT C for Sample Invoices) and Weekly Delivery Tracking Sheet (see EXHIBIT D for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.
- c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

#### VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

#### VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered Program for the period of September 28, 2020 through December 10, 2020 shall not exceed ninety thousand dollars (\$90,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Visa Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

#### VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

(remainder of this page intentionally left blank)

EXHIBIT B

# Norma's Family Restaurant

# **INVOICE SAMPLE**

# Great Plates Delivered Program MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: Sept. 28, 2020 - Dec. 10, 2020 Week of:\_\_\_\_\_

Allowed Categories	Budge	et per Meal	Number of Meals/Deliver	Total		
BREAKFASTS	\$	15	0	\$ 		
LUNCHES	\$	17	0	\$ -		
DINNERS	\$	28	0	\$ 		
Weekly delivery tracking sheet must accompany this invoice.				 		
DELIVERIES per customer	\$	6	0	\$ 		
If using outside delivery service, must attached invoice that covers this week of service.						
Total Invoice	\$	66		\$		

#### CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

**EXHIBIT C** 

# Norma's Family Restaurant

# INVOICE SAMPLE

# AAA CARES Meals

### MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: Sept. 28, 2020 - Dec. 10, 2020 Week of:\_\_

Allowed Categories	Budge	et per Meal	Number of Meals/Deliver	Total		
BREAKFASTS	\$	15	0	\$ 		
LUNCHES	\$	17	0	\$ 		
DINNERS	\$	28	0	\$ 		
Weekly delivery tracking sheet must accompany this invoice.				 		
DELIVERIES per customer	\$	6	0	\$ -		
If using outside delivery service, must attached invoice that covers this week of service.						
Total Invoice	\$	66		\$ -		

#### CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

# Restaurant NAME Program Name

Participant Listing and Tracking Sept 14 thru Sept 20, 2020

# **Restaurant Participant Listing Sample**

R = Reservations for next day meals ALWAYS BE SURE TO ASK PARTICIPANT IF THEY WANT ALL THE MEALS FOR THE NEXT DAY D = Check for each meal delivered

Participant Name	Breakfast		Breakfast Lunch Monday Monday			Dinner Monday		Breakfast Tuesday		ich	Dinner Tuesday	
Delivery address/phone		14	1	iday 14 /		day 14	Tues 9/		Tues 9/		10es 9/1	
and special instructions	R	D	R	D	R	D	R	D	R	D	R	D
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.		2										
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												
Needy Client 123 Main St., Apt. 100 CITY ZIP 831-123-4567 Restrictions: NONE NOTE: Granny unit behind garage. Give her time to get to door.												

### AMENDMENT #1 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And NORMA'S FAMILY RESTAURANT TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #1 is entered into this 7<sup>th</sup> day of January 2021 by and between the County of Monterey (herein called "County") and <u>Norma's Family Restaurant</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on September 25, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every 30 days and is currently scheduled to end on January 7, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 30, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$220,000.00</u>.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from <u>September 28, 2020</u> to <u>January 7, 2021</u>, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond December 10, 2020 before County signs Amendment #1 to the Agreement.

All other terms and conditions of the Original Standard Agreement and all Exhibits remain unchanged.

II. A copy of this AMENDMENT #1 shall be attached to the original Standard Agreement, dated September 25, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
DocuSigned by:	DocuSigned by:
Am	By:
Ву:ЕГОЗАЕГ1488С491.	By:
Daniel Boudreault, Owner	Michael R. Derr
·	Contracts/Purchasing Officer
1/19/2021	1/22/2021
Date:	Date:
	Approved as to form and legality
	DocuSigned by:
By:	By:
	Marina Pantchenko
	1/22/2021
Date:	Date:
	Reviewed as to fiscal provisions:
Ву:	By:
	Gary Giboney 1/22/2021
Date:	Date:

### AMENDMENT #2 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And NORMA'S FAMILY RESTAURANT TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #2 is entered into this 7<sup>th</sup> day of January 2021 by and between the County of Monterey (herein called "County") and <u>Norma's Family Restaurant</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on September 25, 2020 and Amendment #1 on January 14, 2021 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every thirty (30) days and is currently estimated to end on March 8, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through December 30, 2020;

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$295,000.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from June 1, 2020 to March 8, 2021, 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 with COUNTY signing last.

All other terms and conditions of the Standard Agreement and Amendment #1, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated September 28, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #2 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Daniel Boudreault, Owner	By: <u>Michael K. Durr</u> Michael Derr Michael Derr Contracts & Purchasing Officer
1/26/2021 Date:	1/28/2021 Date:
	Approved as to form and legality
Ву:	By:
	Marina Pantchenko 1/28/2021
Date:	Date:
	Reviewed as to fiscal provisions:
	By:
	Gary Giboney
	Date:

Agreement ID: COVID-19, GPD06 Amendment #4

#### **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: Pasta Mia

(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:

For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch, and dinner to households eligible for the Great Plates Delivered program.

#### 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:\$<sup>150,000</sup>

#### 3.0 TERM OF AGREEMENT:

- 3.01 The term of this Agreement is from \_\_\_\_\_\_\_ to \_\_\_\_\_\_ to \_\_\_\_\_\_\_ determined 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: Exhibit B - Sample Invoice and Weekly Delivery Tracking Sheet

#### 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 <u>TERMINATION:</u>

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 <u>not</u> 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

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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.)

<u>Workers' Compensation Insurance</u>: 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

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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 <u>Confidentiality:</u> 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 <u>County Records</u>: 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 <u>Maintenance of Records</u>: 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 <u>Access to and Audit of Records:</u> 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 **<u>Royalties and Inventions:</u>** 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.

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#### 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: FOR CONTRACTOR: Kathleen Murray-Phillips Ernest Amorim Management Analyst CEO Name and Title Name and Title 1562 Constitution Blvd. 1000 S. Main St., Suite 301 Salinas, CA 93901 Salinas, CA 93905 Address Address 831.796-3530 209.648-3328 MurrayPhillipsK@co.monterey.ca.us PastaMiaSalinas@gmail.com 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 <u>Amendment</u>: 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 <u>Contractor:</u> 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 <u>Assignment and Subcontracting:</u> 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 <u>Successors and Assigns:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 <u>Governing Law:</u> This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 <u>Non-exclusive Agreement:</u> 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 <u>Counterparts:</u> 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 <u>Authority:</u> 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 <u>Integration</u>: 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 <u>Interpretation of Conflicting Provisions:</u> 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.

## 16.0 SIGNATURE PAGE.

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

	DOLUSION OF MONTEREY	CONTRACTOR
By:	Michael K. Derr	Pasta Mia
Date:		Contractor's Business Name*
By:		DocuSigned by:
Date:	Department Head (if applicable)	By: 5c708594 Signature of Chair, President, or Vice-President) *
By:		Ernest Amorim
Date:	Board of Supervisors (if applicable)	Date: 7/14/2020   Name and Title
Approve	d as to Form <sup>1</sup>	
By:	Marina Pantchenko	
Date:		By: <u>Patricia Amorim, Scortary</u> Desitive of Secretary, Asst. Secretary,
Approve	ed as to Fiscal Provisions <sup>2</sup>	CFO, Treasurer or Asst. Treasure) * Secretary
By:	Gary Giboney	Name and Title
Date:	D3834BFEC1084191ditor/Controller 7/15/2020   2:10 PM PDT	Date: 7/15/2020   1:11 PM PDT
Approve	ed as to Liability Provisions <sup>3</sup>	
By:		
Date:	Risk Management	
Counts	Board of Supervisors' Agreement Number:	. approved on (date):

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

<sup>1</sup> Approval by County Counsel is required <sup>2</sup> Approval by Auditor-Controller is required	DS DM		
<sup>3</sup> Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9			
	7/14/2020	3:25	PM PDT

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# AMENDMENT 1 TO THE STANDARD AGREEMENT Between COUNTY OF MONTEREY And PASTA MIA TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #1 is entered into this 12<sup>th</sup> day of October 2020 by and between the County of Monterey (herein called "County") and <u>Pasta Mia</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on July 15, 2020 for the Great Plates Delivered Program (referred to as the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on October 10, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 10, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

#### I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$225,000.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from July 15, 2020 to December 10, 2020,

Agreement ID: COVID-19, GPD008 Amendment #1 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond October 9, 2020 before County signs Amendment #2 to the Agreement.

- Exhibit A SCOPE OF SERVICES/PAGMENT PROVISIONS shall be deleted and replaced by Exhibit AA, attached.
- Exhibit B-1 INVOICE SAMPLE FOR THE AAA CARES MEALS shall be added and attached to and made part of this Amendment.

All other terms and conditions of the Standard Agreement, Amendment #1, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated July 15, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Ernest Amorim, Owner	By: Debra Wilson, Contracts/Purchasing Supervisor Michael R. Derr
10/30/2020 Date:	Date:
DocuSigned by:	Approved as to form and legality
By:	By: _B
Patricia Amorim, Secretary	Marina Pantchenko
Date:	11/24/2020 Date:
	Reviewed as to fiscal provisions:
Ву:	By: <u>Gary Gibonuy</u> Gary Giboney
Date:	11/24/2020 Date:

Agreement ID: COVID-19, GPD008 Amendment #1

#### EXHIBIT AA

#### SCOPE OF SERVICES/PAYMENT PROVISIONS

#### PASTA MIA HOME DELIVERED MEAL SERVICES JULY 15, 2020 – DECEMBER 10, 2020

#### I. CONTACT INFORMATION

CONTRACTOR: Ernest Amorim, Owner	
Contact Person &	1562 Constitution Blvd.
Disaster Preparedness	Salinas, CA 93905
	(209) 648-3328
	PastaMiaSalinas@gmail.com
COUNTY Contract Managar	Kathleen Murroy Dhilling Manager

COUNTY Contract Manager:	Kathleen Murray-Phillips, Management Analyst
	Area Agency on Aging
	Department of Social Services
	1000 South Main Street, Suite 301
	Salinas, CA 93901
	(831) 796-3530
	murrayphillipsk@co.monterey.ca.us

#### II. OFFICE AND SITE LOCATIONS

Administrative Offices/Restaurant Location: 1562 Constitution Blvd. Salinas, CA 93905

#### III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of two programs to provide meals to seniors and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Two restaurant meals for seniors programs:
  - i. Great Plates Delivered, and;
  - ii. AAA CARES Meals.
- b. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- c. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- d. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.

- iii. Delivery Process:
  - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
  - 2. Observe the front door to ensure meals are picked up by the Client.
  - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
  - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
  - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
  - 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
  - 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- e. Delivery Service.
  - i. Is CONTRACTOR using a delivery service (circle) YES of NO
    - 1. If yes, what is name of service:
  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- f. Referral and Reservation System
  - i. COUNTY Contract Manager or designee shall email CONTRACTOR two weekly lists of eligible Clients (one for each Program):.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
      - 2. Client Phone Number
      - 3. Client Address
      - 4. Client Dietary Restrictions

# V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain details that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that meals are wanted by the Client.
    - 1. A record of which meal(s) will not be delivered if such a request is made by Client.
- b. Restaurants will complete the two provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoices (see EXHIBIT B and

Pasta Mia Amendment #1 Exhibit AA

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EXHIBIT C for Sample Invoices) and Weekly Delivery Tracking Sheet (see EXHIBIT D for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.

c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

## VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

## VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered and AAA CARES Meals Programs for the entire contract period of June 1, 2020 through December 10, 2020 shall not exceed two hundred and twenty-five thousand dollars (\$225,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Visa Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

#### VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

Page 4 of 4

**EXHIBIT B-1** 

# Pasta Mia

# INVOICE SAMPLE

# AAA CARES Meals MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: October 12, 2020 - Dec. 10, 2020 Week of:\_\_\_\_\_

Allowed Categories	Budget per Meal		Number of Meals/Deliverie	s	Total	
BREAKFASTS	\$	15	0	\$		
LUNCHES	\$	17	0	\$		
DINNERS	\$	28	0	\$		
Weekly delivery tracking sheet must accompany this invoice.						
DELIVERIES	\$	6	0	\$	<del>.</del>	
No more than one delivery per day per customer						
If using outside delivery service, must attached invoice that covers this week of service.						
Total Invoice	\$	66		\$	-	

# CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

Page 1 of 1

# AMENDMENT #2 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And PASTA MIA TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #2 is entered into this 10<sup>th</sup> day of December 2020 by and between the County of Monterey (herein called "County") and <u>Pasta Mia</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on July 15, 2020 and Amendment #1 on November 24, 2020 for the Great Plates Delivered Program (referred to as the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on January 7, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 30, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$300,000.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from July 15, 2020 to January 7, 2021, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond December 10, 2020 before County signs Amendment #2 to the Agreement.

All other terms and conditions of the Standard Agreement, Amendment #1, and all Exhibits remain unchanged.

Agreement ID: COVID-19, GPD008 Amendment #1 II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated July 15, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #2 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Ernest Amorim Ernest Amorim, Owner	By: Debra R. Wilson, Contracts/Purchasing Superviso Debra R. Wilson Contracts/Purchasing Supervisor
12/15/2020 Date:	Date:
By: Patricia Amorim, Scoretary Patricia Amorim, Secretary 12/15/2020 Date:	12/16/2020
	Reviewed as to fiscal provisions:
Ву:	By: <u>Gary Giboney</u> Gary Giboney
Date:	12/16/2020 Date:

Agreement ID: COVID-19, GPD008 Amendment #1

# AMENDMENT #3 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And PASTA MIA TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #3 is entered into this 7<sup>th</sup> day of January 2021 by and between the County of Monterey (herein called "County") and <u>Pasta Mia</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on July 15, 2020, Amendment #1 on November 24, 2020, and Amendment #2 on December 16, 2020 for the Great Plates Delivered Program (referred to as the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every thirty (30) days and is currently estimated to end on March 8, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through December 30, 2020;

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$531,008.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

Agreement ID: COVID-19, GPD08 Amendment #3 The term of this Agreement is from June 1, 2020 to March 8, 2021, 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 with COUNTY signing last.

All other terms and conditions of the Standard Agreement, Amendment #1, Amendment #2, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #3 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Ernest Amorim Ernest Amorim, Owner	By: Michael Derr Michael Derr Contracts & Purchasing Officer
1/20/2021 Date:	1/22/2021
By: Patricia Amorim, Scurt Patricia Amorim, Secreta 1/20/2021 Date:	ary Marina Pantchenko 1/22/2021

Reviewedasstatiscal provisions:

Gary Giboney By:

Gary Giboney

Date: 1/22/2021

Agreement ID: COVID-19, GPD08 Amendment #3

# 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: Stevie's Family Restaurant

(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:**

COVID-19 - For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch, and dinner to eligible households as directed by the County Department of Social Services.

#### 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: $$^{50,000.00}$ 

#### 3.0 TERM OF 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 <u>SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:</u>

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: Sample Invoice and weekly Delivery Tracking Sheet

# 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 <u>TERMINATION:</u>

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 <u>not</u> 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 **<u>Qualifying Insurers:</u>** 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.

- X 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.)

<u>Professional Liability Insurance</u>: 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 <u>Confidentiality:</u> 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 <u>County Records:</u> 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 <u>Maintenance of Records</u>: 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 <u>Access to and Audit of Records:</u> 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 grantce, 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:

Kathleen Murray-Phillips Management Analyst

Name and Title

1000 S. Main St. Suite 301 Salinas CA 93901

Address

831.796-3530

Phone:

FOR CONTRACTOR:

Yusidivia Tapia, Owner

Name and Title

17629 Vierra Canyon Rd. Prunedale CA 93907

Address

831.731-0244

Phone:

# 15.0 MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest:</u> 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 <u>Amendment</u>: This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver:</u> 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 <u>Contractor:</u> 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 <u>Assignment and Subcontracting:</u> 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 <u>Successors and Assigns:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 <u>Governing Law:</u> This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 <u>Non-exclusive Agreement</u>: 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 <u>Construction of Agreement:</u> 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 <u>Counterparts:</u> 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 <u>Authority:</u> 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 <u>Integration</u>: 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 <u>Interpretation of Conflicting Provisions:</u> 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.

# 16.0 SIGNATURE PAGE.

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

	<u></u> DOCUSIONEDENTY OF MONTEREY	CONTRACTOR
By:	Michael R. Derr	Stevie's Family Restaurant
Date:	6/5/2020 6:03 PM PDT	Contractor's Business Name*
iy:		
Date:	Department Head (if applicable)	By: BOE4D16 (SIE45ature of Chair, President, or Vice-President) *
y:		Yusdivia Tapia /Owner.
Date:	Board of Supervisors (if applicable)	Date: 6/5/2020   4:01 PM PDT
pproved	as to Form <sup>1</sup>	
y:	CUB	
ate:		By:
pproved	as to Fiscal Provisions <sup>2</sup>	CFO, Treasurer or Asst. Treasure) *
y:	Burcu Mousa	Name and Title
ate:		Date:
pproved	as to Liability Provisions <sup>3</sup>	
y:		
ate:	Risk Management	
County ]	Board of Supervisors' Agreement Number:	, approved on (date):

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

<sup>1</sup>Approval by County Counsel is required

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

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



6/5/2020 | 6:01 PM PDT

Agreement ID:

# EXHIBIT A

# SCOPE OF SERVICES/PAYMENT PROVISIONS

## COVID-19 STEVE'S FAMILY RESTAURANT GREAT PLATES DELIVERED PROGRAM JUNE 1, 2020 – JULY 31, 2020

# I. CONTACT INFORMATION

CONTRACTOR Contact Person & Disaster Preparedness

Yusdivia Tapia Owner 17629 Vierra Canyon Road Prunedale, CA 93907 (831) 731-0244 YusdiviaTapia79@Yahoo.Com

COUNTY Contract Manager:

Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services 1000 South Main Street Suite 301 Salinas, CA 93901 (831) 796-3530 Fax: (831) 755-8477 murrayphillipsk@co.monterey.ca.us

# II.OFFICE AND SITE LOCATIONSAdministrative Offices:Restaurant Location(s):17629 Vierra Canyon Road17629 Vierra Canyon RoadPrunedale, CA 93907Prunedale, CA 93907

# III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# EXHIBIT A

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of the Great Plates Program and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- b. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- c. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.
  - iii. Delivery Process:
    - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
    - 2. Observe the front door to ensure meals are picked up by the Client.
    - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
    - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
    - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.

- 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
- 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- d. Delivery Service.
  - i. Is CONTRACTOR using a delivery service (circle) YES or NO
     1. If yes, what is name of service:
  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- e. Referral and Reservation System
  - i. COUNTY Contract Manager shall email CONTRACTOR a weekly list of eligible Clients.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

# V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain records that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that all three meals are wanted by the Client.
    - 1. A record of which meal will not be delivered if such a request is made by Client.
- b. Restaurants will complete the provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoice (see EXHIBIT B for Sample Invoice) and Weekly Delivery Tracking Sheet (see EXHIBIT C for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.
- c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

# VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

# VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered Program for the period June 1, 2020 through July 31, 2020 shall not exceed fifty thousand dollars (\$50,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6:04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

(remainder offs this page intentionally left blank)

**EXHIBIT B** 

Steve's Family Restaurant

# **INVOICE SAMPLE**

# Great Plates Delivered Program MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: June 1, 2020 - July 31, 2020 Week Ending:

Allowed Categories	Budget per Meal		Number of Meals/Deliveries	Total	
BREAKFASTS	\$	15	0	\$ 	
LUNCHES	\$	17	0	\$ 	
DINNERS	\$	28	0	\$ -	
Weekly delivery tracking sheet must accompany this invoice.					
<b>DELIVERIES</b> No more than one delivery per day	\$	6	0	\$ -	
<i>If using outside delivery service, must attached invoice that covers this week of service.</i>					
Total Invoice	\$	66		\$ 	

# CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

# **EXHIBIT C**

# Steve's Family Restaurant

# Great Plates Delivered Program MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Weekly Delivery	Tracking Sheet
Week of:	

Breakfast Lunch Dinner Delivery Date Delivered Delivered Stops

Client Number

Column Total

0

0

0

0

# AMENDMENT #1 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And STEVIE'S FAMILY RESTURANT TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #1 is entered into this 12<sup>th</sup> day of October 2020 by and between the County of Monterey (herein called "County") and <u>Stevie's Family Restaurant</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on July 15, 2020 for the Great Plates Delivered Program (referred to as the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on October 10, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 20, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$340,000.00</u>.

- Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from July 1, 2020 to December 20, 2020, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond October 9, 2020 before County signs Amendment #1 to the Agreement.
- Exhibit A SCOPE OF SERVICES/PAGMENT PROVISIONS shall be deleted and replaced by Exhibit AA, attached.

Agreement ID: COVID-19, GPD006 Amendment #1 Exhibit B-1 - INVOICE SAMPLE FOR THE AAA CARES MEALS shall be added and attached to and made part of this Amendment.

All other terms and conditions of the Standard Agreement, Amendment #1, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated July 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR

Bv: Yusdivia Tapia, Owner

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

#### COUNTY OF MONTEREY

DocuSigned by: Midrael K. Derr By: Michael R. Derr

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

Approved as to form and legality

DocuSigned by: Marina Pantdunko By: By:

10/19/2020 | 10:35 AM PDT Date:

Reviewed as to fiscal provisions:

DocuSigned by: Gary Giboney By: Gary Giboney 10/19/2020 | 10:56 AM PDT Date: \_\_\_\_\_

Date:

By:

Date:

#### SCOPE OF SERVICES/PAYMENT PROVISIONS

#### STEVIE'S FAMILY RESTAURANT HOME DELIVERED MEAL SERVICES JULY 1, 2020 – DECEMBER 20, 2020

#### I. CONTACT INFORMATION

CONTRACTOR:	Yusidivia Tapia, Owner
Contact Person &	17629 Vierra Canyon Road
Disaster Preparedness	Prunedale, CA 93907
-	(831) 731-0244
	YusdiviaTapia79@yahoo.com
COUNTY Contract Manager:	Kathleen Murray-Phillips, Managem

Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services 1000 South Main Street, Suite 301 Salinas, CA 93901 (831) 796-3530 murrayphillipsk@co.monterey.ca.us

# II. OFFICE AND SITE LOCATIONS

Administrative Offices/Restaurant Location: 17629 Vierra Canyon Road Prunedale, CA 93907

#### III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of two programs to provide meals to seniors and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Two restaurant meals for seniors programs:
  - i. Great Plates Delivered, and;
  - ii. AAA CARES Meals.
- b. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- c. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- d. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.

- iii. Delivery Process:
  - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly;
  - 2. Observe the front door to ensure meals are picked up by the Client.
  - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
  - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
  - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
  - 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
  - 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- e. Delivery Service.
  - i. Is CONTRACTOR using a delivery service (circle) YES of NO
     1. If yes, what is name of service:
  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- f. Referral and Reservation System
  - i. COUNTY Contract Manager or designee shall email CONTRACTOR two weekly lists of eligible Clients (one for each Program):.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

# V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain details that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that meals are wanted by the Client.
    - 1. A record of which meal(s) will not be delivered if such a request is made by Client.
- b. Restaurants will complete the two provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoices (see EXHIBIT B and

# EXHIBIT AA

EXHIBIT C for Sample Invoices) and Weekly Delivery Tracking Sheet (see EXHIBIT D for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.

c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

## VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

## VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered and AAA CARES Meals Programs for the entire contract period of June 1, 2020 through December 20, 2020 shall not exceed three hundred and forty thousand dollars (\$340,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Visa Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

#### VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

# **EXHIBIT B-1**

Stevie's Family Restaurant

# **INVOICE SAMPLE**

# AAA CARES Meals MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: October 12, 2020 - Dec. 20, 2020 Week of:\_\_\_\_\_

Allowed Categories	Budget per Meal		Number of Meals/Deliveries	Total	
BREAKFASTS	\$	15	0	\$ 	
LUNCHES	\$	17	0	\$ 	
DINNERS	\$	28	0	\$ 	
Weekly delivery tracking sheet must accompany this invoice.				 	
DELIVERIES	\$	6	0	\$ 	
No more than one delivery per day per customer					
If using outside delivery service, must attached invoice that covers this week of service.					
Total Invoice	\$	66		\$	

# CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

# AMENDMENT #2 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And STEVIE'S FAMILY RESTURANT TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & AAA CARES PROGRAMS

THIS AMENDMENT #2 is entered into this 10<sup>th</sup> day of December 2020 by and between the County of Monterey (herein called "County") and <u>Stevie's Family Restaurant</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on July 15, 2020 and Amendment #1 on October 19, 2020 for the Great Plates Delivered Program (referred to as the "Agreement");

WHEREAS, the Program is subject to State extension every thirty (30) days and is currently scheduled to end on January 7, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 30, 2020; and

WHEREAS, Grantee and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$395,000.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from July 1, 2020 to January 7, 2021, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond December 10, 2020 before County signs Amendment #2 to the Agreement.

All other terms and conditions of the Standard Agreement, Amendment #1, and all Exhibits remain unchanged.

Agreement ID: COVID-19, GPD006 Amendment #2 II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated July 15, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By:BSEAD164121E450 Yusdivia Tapia, Owner	By: Debra Wilson, Contracts/Purchasing Supervisor Debra R. Wilson Contracts/Purchasing Supervisor
12/17/2020 Date:	12/22/2020 Date:
	Approved as to form and legality
Ву:	By: Marina Pantchunko Marina Pantchenko
	Deputy County Counsel
Date:	12/22/2020 Date:
	Reviewed as to fiscal provisions:
By:	By: <u></u>
Date:	Chief Deputy Auditor-Controller 12/22/2020 Date:

Agreement ID: COVID-19, GPD006 Amendment #2

## AMENDMENT #3 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And STEVIE'S FAMILY RESTURANT

## TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED & CARES PROGRAMS

THIS AMENDMENT #3 is entered into this 7<sup>th</sup> day of January 2021 by and between the County of Monterey (herein called "County") and <u>Stevie's Family Restaurant</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on July 15, 2020, Amendment #1 on October 19, 2020, and Amendment #2 on December 22, 2020 for the Great Plates Delivered Program (referred to as the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every thirty (30) days and is currently estimated to end on March 8, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through December 30, 2020;

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$511,104.00</u>.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from June 1, 2020 to March 8, 2021, 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 with COUNTY signing last.

All other terms and conditions of the Standard Agreement, Amendment #1, Amendment #2, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #3 to the Agreement on the dates set forth below.

CONTRACTOR	COUNTY OF MONTEREY
By: Yusdivia Tapia, Owner	By: By: Michael Derr Contracts & Durphoning Officer
1/19/2021 Date:	Contracts & Purchasing Officer 1/22/2021 Date:
	Approved as to form and legality
Ву:	By:By:
Date:	1/22/2021 Date:
	Reviewed as the fiscal provisions:
	By: <u>Gary Giboney</u>
	Gary Giboney 1/22/2021 Date:

---**-**-

Agreement ID: COVID-19, GPD06 Amendment #3

## 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: Cork and Plough

(hereinafter "CONTRACTOR").

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

### 1.0 <u>GENERAL DESCRIPTION:</u>

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:**

COVID-19 - For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch, and dinner to eligible households as directed by the Department of Social Services.

### 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: $$^{50,000.00}$ 

### 3.0 TERM OF 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 <u>SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:</u>

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: Sample Invoice and Weekly Delivery Tracking Sheet

## 5.0 <u>PERFORMANCE STANDARDS:</u>

- 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 <u>TERMINATION:</u>

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 <u>not</u> 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 **<u>Qualifying Insurers:</u>** 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.

- X 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.
  - <u>Agreement Over \$100,000 Business Automobile Liability Insurance</u>: 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

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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 <u>Confidentiality:</u> 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 <u>County Records:</u> 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 <u>Maintenance of Records:</u> 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 <u>Access to and Audit of Records:</u> 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 **<u>Royalties and Inventions:</u>** 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 <u>NOTICES:</u>

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:

Kathleen Murray-Phillips

Name and Title

1000 South Main St., Suite 301 Salinas, CA 93901

Address

831.796-3550

Phone:

### FOR CONTRACTOR:

Susan Childers

Name and Title

200 Broadway, Suite 34 King City, CA 93930

Address

253.208-9523

Phone:

### 15.0 MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest:</u> 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 <u>Amendment:</u> 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 <u>Contractor</u>: 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 <u>Assignment and Subcontracting:</u> 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 <u>Compliance with Applicable Law:</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 **<u>Headings</u>**: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 <u>Time is of the Essence</u>: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 <u>Governing Law:</u> This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 **<u>Non-exclusive Agreement</u>**: 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 <u>Construction of Agreement:</u> 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 <u>Counterparts</u>: 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 <u>Authority:</u> 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.

## 16.0 SIGNATURE PAGE.

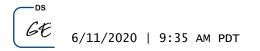
IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

	COUNTY OF MONTEREY		CONTRACTOR
By:	Debra Wilson, Contracts/Purchasing Super	wisor	Cork and Plough
Date:	6/11/2020 9:38 AM PDT		Contractor's Business Name*
By:			DocuSigned by:
Date:	Department Head (if applicable)	By:	Susan (Lilders, Partner 95E2EEG (Signature of Chair, President, or
By:			Vice-President)* Susan M. Childers, Managing Partner
Date:	Board of Supervisors (if applicable)	Date:	6/10/2020   3:40 PM PDT
Approved	as to Form <sup>1</sup>		
By:	Anne Breneton, Deputy County Counsel		DocuSigned by:
Date:	07025F3AA36B4ACounty Counsel 6/10/2020   4:42 PM PDT	By:	Kon (Luillers, fartuer OCD76 Signature of Secretary, Asst. Secretary,
Approved	as to Fiscal Provisions <sup>2</sup>		CFO, Treasurer or Asst. Treasure) * Ronald Childers Partner
By:	Burcu Mousa		Name and Title
Date:	6/11/2020   12:17 AM PDT	Date:	6/10/2020   3:50 PM PDT
Approved	l as to Liability Provisions <sup>3</sup>		
By:			
Date:	Risk Management		
County ]	Board of Supervisors' Agreement Number:		. approved on (date):

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

<sup>1</sup>Approval by County Counsel is required

<sup>&</sup>lt;sup>3</sup>Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9



<sup>&</sup>lt;sup>2</sup>Approval by Auditor-Controller is required

### SCOPE OF SERVICES/PAYMENT PROVISIONS

### COVID-19 THE CORK AND PLOUGH GREAT PLATES DELIVERED PROGRAM JUNE 1, 2020 – JULY 31, 2020

### I. CONTACT INFORMATION

CONTRACTOR Contact Person & Disaster Preparedness	Susan Childers Partner/General Manager 200 Broadway, Suite 34 King City, CA 93930 (253) 208-9523 SueNRon456@MSN.com
COUNTY Contract Manager:	Kathleen Murray-Phillips, Management Analyst Area Agency on Aging Department of Social Services 1000 South Main Street Suite 301 Salinas, CA 93901 (831) 796-3530 Fax: (831) 755-8477 murrayphillipsk@co.monterey.ca.us

### II. OFFICE AND SITE LOCATIONS

Administrative Offices:	<b>Restaurant Location(s):</b>
200 Broadway, Suite 34	200 Broadway, Suite 34
King City, CA 93930	King City, CA 93930

### III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act].
- g. In accordance with all Food & Safety regulations.

# IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of the Great Plates Program and provide up to 3 meals per day to referred clients with the following guidelines:

- a. Meal Standards and Menu Planning
  - i. Must be able to accommodate dietary restrictions for clients.
  - ii. Breakfast
    - Low in sodium
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
  - iii. Lunch and Dinner
    - Low in sodium
    - Piece of fresh fruit or vegetable on each
    - No sugary drinks (<24 calories / 8oz)
    - Fruit juice must be 100% fruit based
- b. Menu Preparation and Approval
  - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
  - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
  - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.
- c. Delivery Standards
  - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
  - ii. Meal delivery should be scheduled for delivery during late morning and include:
    - 1. Lunch
    - 2. Dinner
    - 3. Breakfast for next day
    - 4. The actual meals delivered may vary depending on the client's needs.
  - iii. Delivery Process:
    - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly.
    - 2. Observe the front door to ensure meals are picked up by the Client.
    - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
    - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
    - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.

- 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.
- 7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.
- d. Delivery Service.
  - i. Is CONTRACTOR using a delivery service (circle) YES or NO
    - 1. If yes, what is name of service: \_\_\_\_\_
  - ii. If No, please supply background reports on the drivers being used.
    - 1. No Delivery Driver may be used until the COUNTY has received a copy of the Delivery Driver's background report.
- e. Referral and Reservation System
  - i. COUNTY Contract Manager shall email CONTRACTOR a weekly list of eligible Clients.
    - 1. COUNTY Contract Manager may add Clients at any time during the week.
    - 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
  - ii. Client referrals shall include:
    - 1. Client Name
    - 2. Client Phone Number
    - 3. Client Address
    - 4. Client Dietary Restrictions

## V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain records that include:
  - i. Verification that Client will be home during the delivery period.
  - ii. Verification that all three meals are wanted by the Client.
    - 1. A record of which meal will not be delivered if such a request is made by Client.
- b. Restaurants will complete the provided weekly participant listings with the meals delivered and return to the COUNTY with a weekly invoice (see EXHIBIT B for Sample Invoice) and Weekly Delivery Tracking Sheet (see EXHIBIT C for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.
- c. COUNTY Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

## VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

### VII. PAYMENT SUMMARY

a. Meal charges cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. The maximum amount payable by COUNTY to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered Program for the period June 1, 2020 through July 31, 2020 shall not exceed fifty thousand dollars (\$50,000).
- c. COUNTY shall reimburse CONTRACTOR in the form of a COUNTY Procurement Card within 7 business days of receipt of the invoice.
  - i. If CONTRACTOR would prefer a check process instead, please notify COUNTY at time of signing agreement for other arrangements to be made.
  - ii. CONTRACTOR understands that the "check" process is a longer turnaround for payment.
- d. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

## VIII. MISCELLANEOUS PROVISIONS

a. All parties agree to add the following Section 7.04 to the Standard Agreement: CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the COUNTY. Out of respect of the client's being served, CONTRACTOR will provide as much notice as is feasible so that COUNTY may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

(remainder offs this page intentionally left blank)

EXHIBIT B

# The Cork and Plough

# **INVOICE SAMPLE**

# Great Plates Delivered Program MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING

Contract Period: June 1, 2020 - July 31, 2020 Week Ending:\_\_\_\_\_

Allowed Categories	Budget per Meal		Number o Meals/Delive	Total		
BREAKFASTS	\$	15	0	\$	-	
LUNCHES	\$	17	0	\$	-	
DINNERS	\$	28	0	\$	-	
Weekly delivery tracking sheet must accompany this invoice.						
<b>DELIVERIES</b> No more than one delivery per day	\$	6	0	\$	-	
If using outside delivery service, must attached invoice that covers this week of service.						
Total Invoice	\$	66		\$	-	

## CERTIFICATION

Signature of Restaurant Owner or Authorized Staff

Signature of County Contract Manager

Title

# **EXHIBIT C**

# The Cork and Plough

# **Great Plates Delivered Program MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES AREA AGENCY ON AGING**

Weekly D	elivery	Tracking	Sheet
Week of:			

Client Number

Date

Delivery Breakfast Lunch Dinner Delivered Delivered Delivered

<u>Stops</u>

**Column Total** 

0

0

0

0

## AMENDMENT #1 TO THE STANDARD AGREEMENT COUNTY OF MONTEREY And CORK AND PLOUGH To PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE GREAT PLATES DELIVERED PROGRAM

THIS AMENDMENT #1 is entered into this 1st day of August 2020 by and between the County of Monterey (herein called "County") and <u>Cork and Plough</u> (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the Great Plates Delivered program was originally scheduled to end on July 31, 2020;

WHEREAS, the State has extended the Great Plates Delivered program through at least August 9, 2020 and is expected to extend it through October 31, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

- I. Changes to Existing Agreement
  - Section 2 PAYMENT PROVISIONS shall be deleted in its entirety and replaced with: County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of **\$110,000.00**.
  - Section 3.01 TERM OF AGREEMENT shall be deleted in its entirety and replaced with: The term of this Agreement is from June 1, 2020 to October 31, 2020, 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 with COUNT signing last, and CONTRACTOR may not continue working beyond July 31, 2020 before County signs Amendment #1 to the Agreement.

Section 9.03 Automobile Insurance Thresholds -

The amount payable under this Amendment triggers the higher business automobile liability insurance requirements of this section. The CONTRACTOR shall provide evidence that they have insurance covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Amendment, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

All other terms and conditions of the Standard Agreement and its Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR

 DocuSigned by: Ron (luilders, Partner Bv:

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

By: Susan Uilders, Partner

Date: \_\_\_\_ 7/23/2020 | 8:27 AM PDT

By:\_\_\_\_\_

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

### COUNTY OF MONTEREY

DocuSigned by: Michael R. Derr By:

Date: 7/28/2020 | 9:52 AM PDT

Approved as to form and legality

DocuSigned by Marina Pantchenko By:

Data	7/28/2020	I	9:05	AM	PDT	
Date:	, , , .					

Reviewed as to fiscal provisions:

Gary Giboney By:

Date: 7/28/2020 | 9:18 AM PDT



# **Monterey County**

## **Board Report**

### Legistar File Number: RES 21-044

Item No.24

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/21/2021

Version: 1

Current Status: Department of Social Services - Consent Matter Type: BoS Resolution

Adopt Resolution to:

a. Approve amending the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4) Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program as indicated in Attachment A; and

b. Approve amending the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential for as indicated in attachment A; and

c. Authorize and direct the County Administrative Office and the Auditor-Controller's Office to incorporate the changes in the FY 2020-21 Adopted Budget Unit 001-5010-8262-SOC005 to reflect the change in position counts.

### ..Report

**RECOMMENDATION:** 

It is recommended that the Board of Supervisors adopt a resolution to:

a. Approve amending the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4) Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program as indicated in Attachment A; and

b. Approve amending the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential for as indicated in attachment A; and

c. Authorize and direct the County Administrative Office and the Auditor-Controller's Office to incorporate the changes to the FY 2020-21 Adopted Budget Unit 001-5010-8262-SOC005 to reflect the change in position counts.

### SUMMARY:

The Department of Social Services (DSS) is requesting reallocation of one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4) Office Assistant II's to four (4) Eligibility Specialist II's. These positions are within the Community Benefits Branch of Social Services. The request to reallocate these positions is based upon the business need for the Supervising Office Assistant to expand the skillset by increasing program knowledge to assist in managing outreach and coordinate efforts to triage the call center calls. The request for the reallocated Eligibility Specialists is because the Department has experienced new operating processes and an increase in workload demand which impacts customer services which are essential services within our

#### community.

DSS is requesting support to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential located in Social Services Human Resources to meet the personnel service levels required for this large department.

Classification	Code	<u>FTEs</u>	<b>Change</b>	<u>FTEs</u>
Supervising Office Assistant I	80E81	18	-1	17
Supervising Office Assistant II	80E82	1	1	2
Office Assistant II	80E21	85	-4	81
Eligibility Specialist II	25E21	164	4	168
Principal Clerk - Confidential	80E98	3	-1	2
Personnel Technician - Conf.	<u>14H03</u>	<u>3</u>	<u>1</u>	<u>4</u>
TOTAL	0			

Overall, the six (6) reallocated positions are listed below:

### OTHER AGENCY INVOLVEMENT:

The Human Resources Department has reviewed and approved the request to classify for the reallocation of these six (6) positions and concurs with the recommendations. County Counsel has approved to form. On February 24, 2021, the Budget Committee gave support for the recommended actions.

### FINANCING:

The six (6) reallocated positions in Social Services have an increased total of \$96,464; Supervising Office Assistant II - \$5,832, Eligibility Specialist - \$76,588, and the Personnel Technician - Confidential - \$14,044; and pro-rated for 3.5 months is a total of \$28,135.

The annual increase of expenditures and revenues is \$96,464, and \$28,135 pro-rated for 3.5 months. This additional cost will be absorbed into the department's current FY 2020-21 Adopted Budget (001-5010-SOC005). Recommended actions will not require additional County General Fund contributions (GFC) in DSS in the current or next fiscal year as additional coast will be managed within allocated GFC.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

One or two sentences explaining how this recommendation supports/advances the Board of Supervisors Strategic Initiatives. Reference to any Key Objectives and/or Milestones that are related.

Mark a check to the related Board of Supervisors Strategic Initiatives

Economic Development
X Administration
Health & Human Services
Infrastructure

\_\_Public Safety

Prepared by: Becky Cromer, Interim Finance Director, x4404

Approved by: Lori A. Medina, Social Services Director, x4430

Attachments: Attachment A Resolution



# **Monterey County**

## **Board Report**

Legistar File Number: RES 21-044

March 02, 2021

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor

Salinas, CA 93901

Current Status: Agenda Ready

Matter Type: BoS Resolution

Item No.

Introduced: 2/21/2021

Version: 1

Adopt Resolution to:

a. Approve amending the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4) Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program as indicated in Attachment A; and

b. Approve amending the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential for as indicated in attachment A; and

c. Authorize and direct the County Administrative Office and the Auditor-Controller's Office to incorporate the changes in the FY 2020-21 Adopted Budget Unit 001-5010-8262-SOC005 to reflect the change in position counts.

### ..Report

**RECOMMENDATION:** 

It is recommended that the Board of Supervisors adopt a resolution to:

a. Approve amending the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4) Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program as indicated in Attachment A; and

b. Approve amending the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential for as indicated in attachment A; and

c. Authorize and direct the County Administrative Office and the Auditor-Controller's Office to incorporate the changes to the FY 2020-21 Adopted Budget Unit 001-5010-8262-SOC005 to reflect the change in position counts.

### SUMMARY:

The Department of Social Services (DSS) is requesting reallocation of one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4) Office Assistant II's to four (4) Eligibility Specialist II's. These positions are within the Community Benefits Branch of Social Services. The request to reallocate these positions is based upon the business need for the Supervising Office Assistant to expand the skillset by increasing program knowledge to assist in managing outreach and coordinate efforts to triage the call center calls. The request for the reallocated Eligibility Specialists is because the Department has experienced new operating processes and an increase in workload demand which impacts customer services which are essential services within our community. DSS is requesting support to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential located in Social Services Human Resources to meet the personnel service levels required for this large department.

<u>Classification</u>	_Code	FTEs	Change	FTEs
Supervising Office Assistant I	80E81	18	-1	17
Supervising Office Assistant II	80E82	1	1	2
Office Assistant II	80E21	85	-4	81
Eligibility Specialist II	25E21	164	4	168
Principal Clerk - Confidential	80E98	3	-1	2
Personnel Technician – Conf.	<u>14H03</u>	3	1	4
TOTAL	52		0	

Overall, the six (6) reallocated positions are listed below:

### **OTHER AGENCY INVOLVEMENT:**

The Human Resources Department has reviewed and approved the request to classify for the reallocation of these six (6) positions and concurs with the recommendations. County Counsel has approved to form. On February 24, 2021, the Budget Committee gave support for the recommended actions.

### FINANCING:

The six (6) reallocated positions in Social Services have an increased total of \$96,464; Supervising Office Assistant II - \$5,832, Eligibility Specialist - \$76,588, and the Personnel Technician - Confidential - \$14,044; and pro-rated for 3.5 months is a total of \$28,135.

The annual increase of expenditures and revenues is \$96,464, and \$28,135 pro-rated for 3.5 months. This additional cost will be absorbed into the department's current FY 2020-21 Adopted Budget (001-5010-SOC005). Recommended actions will not require additional County General Fund contributions (GFC) in DSS in the current or next fiscal year as additional coast will be managed within allocated GFC.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action correlates to the Administration Strategic Initiative adopted by the Board of Supervisors by providing the appropriate classifications to meet the needs and support to a large department.

Mark a check to the related Board of Supervisors Strategic Initiatives

\_\_Economic Development X Administration \_\_Health & Human Services \_\_Infrastructure Public Safety 674

Prepared by: Becky Cromer, Interim Finance Director, x4404

Approved by: Lori A. Medina, Social Services Director, x4430

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Attachments: Attachment A Resolution

## ATTACHMENT A

## Reallocate

Department of Social Services Budget Onit 5010-SOC003-8202						
From/To				Position		
	Class		Position	Increase/Decrease	Revised	
	Code	Position Title	Number		Total	
					FTE	
From	80E81	Supervising Office Assistant I	0015	(1.0)	17.0	
То	80E82	Supervising Office Assistant II	0002	1.0	2.0	
From	80E21	Office Assistant II	0013,			
			0026,	(4,0)	81.0	
			0034,	(4.0)		
			0046			
То	25E21	Eligibility Specialist II	0186,			
			0187,	4.0	168.0	
			0188,			
			0189			
From	80E98	Principal Clerk - Confidential	0001	(1.0)	2.0	
То	14H03	Personnel Technician – Conf.	0004	1.0	4.0	

Department of Social Services Budget Unit 5010-SOC005-8262

Resolution No.:

Adopt a Resolution to:

- a. Amend the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4) Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program;
- b. Amend the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential; and
- c. Authorize and direct the County Administrative Office and the Auditor-Controller's Office to incorporate the changes in the FY 2020-21 Adopted Budget Unit 001-5010-8262-SOC005 to reflect the change in position counts.

WHEREAS, the Department of Social Services has determined the need to reallocate one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II for the Community Benefits Program; and

WHEREAS, the Department of Social Services has determined the need to add four (4) Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program; and

WHEREAS, the Department of Social Services has determined the need to add one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential for Human Resources to better meet the service needs of the department; and

WHEREAS, the Human Resources Department has reviewed and approved the Request to Classify to reallocate these positions;

NOW, THEREFORE, BE IT RESOLVED THAT, the Monterey County Board of Supervisors does hereby:

- The Department of Social Services Budget Unit 001-5010-8262-SOC005 is amended to reallocate one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4) Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program as indicated below; and
- 2. The Department of Social Services Budget Unit 001-5010-8262-SOC005 is amended to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential as indicated below:

From/To				Position		
	Class		Position	Increase/Decrease	Revised	
	Code	Position Title	Number		Total	
					FTE	
From	80E81	Supervising Office Assistant I	0015	(1.0)	17.0	
То	80E82	Supervising Office Assistant II	0002	1.0	2.0	
From	80E21	Office Assistant II	0013,			
			0026,	(1,0)	(1,0)	81.0
			0034,	(4.0)	01.0	
			0046			

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То	25E21	Eligibility Specialist II	0186, 0187, 0188, 0189	4.0	168.0
From	80E98	Principal Clerk - Confidential	0001	(1.0)	2.0
То	14H03	Personnel Technician – Conf.	0004	1.0	4.0
TOTAL			· · ·	0	

3. The County Administrative Office and the Auditor-Controller's Office are authorized and directed to incorporate the changes in the FY 2020-21 Adopted Budget Unit 001-5010-8262-SOC005 to reflect the change in position counts.

PASSED AND ADOPTED upon motion of Supervisor \_\_\_\_\_\_, seconded by Supervisor \_\_\_\_\_\_, and carried on this \_\_\_\_\_\_day of \_\_\_\_\_, 2021 by the following vote, to-wit:

AYES: NOES: ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book\_\_\_\_ for the meeting on

Dated:

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Ву \_\_\_\_\_

, Deputy

Resolution No.:

Adopt a Resolution to:

- a. Amend the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate
   (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4)
   Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program;
- b. Amend the Department of Social Services Budget Unit 001-5010-8262-SOC005 to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential; and
- c. Authorize and direct the County Administrative Office and the Auditor-Controller's Office to incorporate the changes in the FY 2020-21 Adopted Budget Unit 001-5010-8262-SOC005 to reflect the change in position counts.

WHEREAS, the Department of Social Services has determined the need to reallocate one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II for the Community Benefits Program; and

WHEREAS, the Department of Social Services has determined the need to add four (4) Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program; and

WHEREAS, the Department of Social Services has determined the need to add one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential for Human Resources to better meet the service needs of the department; and

WHEREAS, the Human Resources Department has reviewed and approved the Request to Classify to reallocate these positions;

NOW, THEREFORE, BE IT RESOLVED THAT, the Monterey County Board of Supervisors does hereby:

- The Department of Social Services Budget Unit 001-5010-8262-SOC005 is amended to reallocate one (1) Supervising Office Assistant I to one (1) Supervising Office Assistant II, and four (4) Office Assistant II's to four (4) Eligibility Specialist II's for the Community Benefits Program as indicated below; and
- 2. The Department of Social Services Budget Unit 001-5010-8262-SOC005 is amended to reallocate one (1) Principal Clerk Confidential to one (1) Personnel Technician Confidential as indicated below:

From/To				Position		
	Class		Position	Increase/Decrease	Revised	
	Code	Position Title	Number		Total	
					FTE	
From	80E81	Supervising Office Assistant I	0015	(1.0)	17.0	
То	80E82	Supervising Office Assistant II	0002	1.0	2.0	
From	80E21	Office Assistant II	0013,			
			0026,	(4.0)	(1 0)	81.0
			0034,		01.0	
			0046			

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То	25E21	Eligibility Specialist II	0186, 0187, 0188, 0180	4.0	168.0
From	80E98	Principal Clerk - Confidential	0189 0001	(1.0)	2.0
То	14H03	Personnel Technician – Conf.	0001	1.0	4.0
TOTAL				0	

<sup>3.</sup> The County Administrative Office and the Auditor-Controller's Office are authorized and directed to incorporate the changes in the FY 2020-21 Adopted Budget Unit 001-5010-8262-SOC005 to reflect the change in position counts.

PASSED AND ADOPTED upon motion of Supervisor \_\_\_\_\_\_, seconded by Supervisor \_\_\_\_\_\_, and carried on this \_\_\_\_\_\_, 2021 by the following vote, to-wit:

AYES: NOES: ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book\_\_\_\_ for the meeting on

Dated:

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Ву \_\_\_\_\_

, Deputy



# **Monterey County**

**Board Report** 

### Legistar File Number: RES 21-021

Item No.25

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

Current Status: Criminal Justice - Consent

Matter Type: BoS Resolution

March 02, 2021

Introduced: 1/26/2021

Version: 3

Adopt Resolution to:

a. Ratify the submittal of a grant application by the Monterey County Public Defender to the Board of State and Community Corrections (BSCC) for the Indigent Defense Grant Program in the amount of \$637,000.00 for funding of Public Defender's Attorney and Case Management Enhancement project (ACME); and

b. Authorize the Public Defender or Assistant Public Defender to execute the Grant Agreement with BSCC, accepting an Indigent Defense Grant program award for a total grant amount of \$637,000.00, for developing and implementing an ACME project for the grant period February 15, 2021 through June 30, 2023; and

c. Approve the delegation of authority to the Public Defender or Assistant Public Defender to act on the County's behalf to carry out and consummate all transactions contemplated during the grant period.

### ..Report

### **RECOMMENDATION:**

It is recommended that the Board of Supervisors support adopting a resolution to: Adopt Resolution to:

a. Ratify the submittal of a grant application by the Monterey County Public Defender to the Board of State and Community Corrections (BSCC) for the Indigent Defense Grant Program in the amount of \$637,000.00 for funding of Public Defender's Attorney and Case Management Enhancement project (ACME); and

b. Authorize the Public Defender or Assistant Public Defender to execute the Grant Agreement with BSCC, accepting an Indigent Defense Grant program award for a total grant amount of \$637,000.00, for developing and implementing an ACME project for the grant period February 15, 2021 through June 30, 2023; and

c. Approve the delegation of authority to the Public Defender or Assistant Public Defender to act on the County's behalf to carry out and consummate all transactions contemplated during the grant period.

### SUMMARY:

The Public Defender office is applying for an Indigent Defense Grant Program through the Board of State and Community Corrections (BSCC) in the amount of \$637,000.00 to be funded for a period commencing on February 15, 2021 through June 30, 2023. The Board of State and Community Corrections requires formal authorization in order to consider the County's submission. Therefore,

Board approval of the submission is requested.

#### DISCUSSION:

The Board of State and Community Corrections (BSCC) is an independent statutory agency that provides leadership and technical assistance to the adult and juvenile criminal justice systems, expertise on Public Safety Realignment issues, a data and information clearinghouse, and provides assistance on a wide range of community corrections issues. The BSCC also administers public safety related to grant funding, including evidence-based practices to fight gangs, and works to address the over representation of youth of color in the juvenile justice system.

The Budget Act of 2020 (Senate Bill 74) established the Indigent Defense Grant Program and appropriated \$10,000,000 in funding. Per the Budget Act, \$9,800,000 is available for grants to nineteen counties with a population of 550,000 residents or less. The Monterey County Public Defender is among one of the nineteen applicable counties who meet eligibility of this grant. The County's allocation is \$637,000.00.

Funds awarded under the Indigent Defense Grant Program will be utilized to address the Public Defender's Attorney and Case Management Enhancement (ACME) project. The ACME project will enhance attorney support for indigent client defense by adding a searchable database to our current paperless digital case management system, streamlining the amount of time the court and client wait for the delivery of paper documents that are stored in offsite locations, and automatically sending text messages to remind indigent clients of the time and place of their upcoming court dates.

The use of BSCC grant funds will result in a more efficient case management system that will benefit the court and our defense of indigent clients. Further outcomes will include attorneys allocating more of their time to ensure positive client outcomes by (1) reducing the time attorneys spend in digitizing and automating duties; and (2) reducing re-calendaring court dates caused by client non-appearances; (3) reducing the time attorneys spend in searching for testimony of recurring witnesses to the point of creating a searchable case database, having information quickly at hand will let attorneys efficiently determine the validity of prior conviction allegations, identify client eligibility for all types of post-conviction relief, and rapidly transfer case materials to subsequent counsel for appeal and writ matters; and (4) improving our method of measuring attorney workloads, thereby redistributing caseloads to achieve workload efficiencies.

In addition to the four goals and related outcomes listed above, the ACME project includes the purchase and installation of hardware and software and software training for attorneys. Our plan includes an assistant Public Defender as project director, a designated financial officer, designated day-to-day project and fiscal contacts, and oversight provided by our Public Defender.

ACME project evaluation (local evaluation plan and logic model for process and outcome designs and methods; data collection tools, methods, and analysis; fidelity monitoring; and local evaluation report) will be conducted, through a Memorandum of Understanding by the County of Monterey Health Department evaluation team that conducted the County's BSCC Strengthening Law Enforcement grant and is currently conducting BSCC's Proposition 64 Public Health and Safety Grant Program

grant.

### OTHER AGENCY INVOLVEMENT:

County Counsel and the Auditor Controller have reviewed this report to legal form and fiscal provisions. The County Administrative Office has reviewed this report and the Budget Committee approved this request on February 24, 2021.

### FINANCING:

There will be no cost to the County General Fund associated with the recommendation at this time. The department plans to incorporate grant related expenditures and offsetting reimbursement revenues into future budget cycles through FY 2021-2023. Once the grant is approved by the BSCC, if the department requires an increase in appropriations and revenues in the current fiscal year, it will return before the Budget Committee and the Board.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This recommendation meets the Board's strategic initiatives by promoting an organization that practices efficient and effective resource management and by creating a safe environment for communities to thrive and grow while reducing violent crimes.

Mark a check to the related Board of Supervisors Strategic Initiatives

Economic Development X Administration Health & Human Services Infrastructure

X Public Safety

Prepared by: Becky Avila, Management Analyst, Ext. 3048 Approved by: Susan E. Chapman, Public Defender, Ext. 5806

Attachments: Resolution Indigent Defense Grant Program Application

## ..Title

Adopt Resolution to:

a. Ratify the submittal of a grant application by the Monterey County Public Defender to the Board of State and Community Corrections (BSCC) for the Indigent Defense Grant Program in the amount of \$637,000.00 for funding of Public Defender's Attorney and Case Management Enhancement project (ACME); and

b. Authorize the Public Defender or Assistant Public Defender to execute the Grant Agreement with BSCC, accepting an Indigent Defense Grant program award for a total grant amount of \$637,000.00, for developing and implementing an ACME project for the grant period February 15, 2021 through June 30, 2023; and

c. Approve the delegation of authority to the Public Defender or Assistant Public Defender to act on the County's behalf to carry out and consummate all transactions contemplated during the grant period.

### ..Report

### **RECOMMENDATION:**

It is recommended that the Board of Supervisors support adopting a resolution to: Adopt Resolution to:

a. Ratify the submittal of a grant application by the Monterey County Public Defender to the Board of State and Community Corrections (BSCC) for the Indigent Defense Grant Program in the amount of \$637,000.00 for funding of Public Defender's Attorney and Case Management Enhancement project (ACME); and

b. Authorize the Public Defender or Assistant Public Defender to execute the Grant Agreement with BSCC, accepting an Indigent Defense Grant program award for a total grant amount of \$637,000.00, for developing and implementing an ACME project for the grant period February 15, 2021 through June 30, 2023; and

c. Approve the delegation of authority to the Public Defender or Assistant Public Defender to act on the County's behalf to carry out and consummate all transactions contemplated during the grant period.

### SUMMARY:

The Public Defender office is applying for an Indigent Defense Grant Program through the Board of State and Community Corrections (BSCC) in the amount of \$637,000.00 to be funded for a period commencing on February 15, 2021 through June 30, 2023. The Board of State and Community Corrections requires formal authorization in order to consider the County's submission. Therefore, Board approval of the submission is requested.

### **DISCUSSION**:

The Board of State and Community Corrections (BSCC) is an independent statutory agency that provides leadership and technical assistance to the adult and juvenile criminal justice systems, expertise on Public Safety Realignment issues, a data and information clearinghouse, and provides assistance on a wide range of community corrections issues. The BSCC also administers public safety related to grant funding, including evidence-based practices to fight

gangs, and works to address the over representation of youth of color in the juvenile justice system.

The Budget Act of 2020 (Senate Bill 74) established the Indigent Defense Grant Program and appropriated \$10,000,000 in funding. Per the Budget Act, \$9,800,000 is available for grants to nineteen counties with a population of 550,000 residents or less. The Monterey County Public Defender is among one of the nineteen applicable counties who meet eligibility of this grant. The County's allocation is \$637,000.00.

Funds awarded under the Indigent Defense Grant Program will be utilized to address the Public Defender's Attorney and Case Management Enhancement (ACME) project. The ACME project will enhance attorney support for indigent client defense by adding a searchable database to our current paperless digital case management system, streamlining the amount of time the court and client wait for the delivery of paper documents that are stored in offsite locations, and automatically sending text messages to remind indigent clients of the time and place of their upcoming court dates.

The use of BSCC grant funds will result in a more efficient case management system that will benefit the court and our defense of indigent clients. Further outcomes will include attorneys allocating more of their time to ensure positive client outcomes by (1) reducing the time attorneys spend in digitizing and automating duties; and (2) reducing re-calendaring court dates caused by client non-appearances; (3) reducing the time attorneys spend in searching for testimony of recurring witnesses to the point of creating a searchable case database, having information quickly at hand will let attorneys efficiently determine the validity of prior conviction allegations, identify client eligibility for all types of post-conviction relief, and rapidly transfer case materials to subsequent counsel for appeal and writ matters; and (4) improving our method of measuring attorney workloads, thereby redistributing caseloads to achieve workload efficiencies.

In addition to the four goals and related outcomes listed above, the ACME project includes the purchase and installation of hardware and software and software training for attorneys. Our plan includes an assistant Public Defender as project director, a designated financial officer, designated day-to-day project and fiscal contacts, and oversight provided by our Public Defender.

ACME project evaluation (local evaluation plan and logic model for process and outcome designs and methods; data collection tools, methods, and analysis; fidelity monitoring; and local evaluation report) will be conducted, through a Memorandum of Understanding by the County of Monterey Health Department evaluation team that conducted the County's BSCC Strengthening Law Enforcement grant and is currently conducting BSCC's Proposition 64 Public Health and Safety Grant Program grant.

### **OTHER AGENCY INVOLVEMENT:**

County Counsel and the Auditor Controller have reviewed this report to legal form and fiscal provisions. The County Administrative Office has reviewed this report and the Budget

Committee approved this request on February 24, 2021.

### FINANCING:

There will be no cost to the County General Fund associated with the recommendation at this time. The department plans to incorporate grant related expenditures and offsetting reimbursement revenues into future budget cycles through FY 2021-2023. Once the grant is approved by the BSCC, if the department requires an increase in appropriations and revenues in the current fiscal year, it will return before the Budget Committee and the Board.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This recommendation meets the Board's strategic initiatives by promoting an organization that practices efficient and effective resource management and by creating a safe environment for communities to thrive and grow while reducing violent crimes.

Mark a check to the related Board of Supervisors Strategic Initiatives

Economic Development

- X Administration Health & Human Services Infrastructure
- X Public Safety

Prepared by: Becky Avila, Management Analyst, Ext. 3048 Approved by: Susan E. Chapman, Public Defender, Ext. 5806

Attachments: Resolution Indigent Defense Grant Program Application

## MONTEREY COUNTY OFFICE OF THE PUBLIC DEFENDER

(831) 755-5058 - FAX (831) 755-5873 - PO BOX 539, SALINAS, CALIFORNIA 93901

SUSAN E. CHAPMAN public defender



**Indigent Defense Grant Program** 

### Resolution

Note: Our Board Resolution and Board Order did not make it to the February 9, 2021 Board of Supervisors meeting agenda. As stated on page 4 of the application packet "...a signed resolution is not required at the time of proposal submission...". The County of Monterey Public Defender will submit the attached draft documents.

### **Board of Supervisors County of Monterey, State of California**

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### Resolution No.

A Resolution to:

- a. Ratify the submittal of a grant application by the Monterey County Public Defender to the Board of State and Community Corrections (BSCC) for the Indigent Defense Grant Program in the amount of \$637,000.00 for funding of Public Defender's Attorney and Case Management Enhancement project (ACME); and )
- b. Authorize the Public Defender or Assistant Public Defender to execute the Grant Agreement with BSCC, accepting an Indigent Defense Grant program award for a total grant amount of \$637,000.00, for developing and implementing an ACME project for the grant period February 15, 2021 through June 30, 2023; and
- c. Approve the delegation of authority to the Public Defender or Assistant Public Defender to act on the County's behalf to carry out and consummate all transactions contemplated during the grant period.

WHEREAS, the County of Monterey Public Defender desires to participate in the Indigent Defense Grant Program funded through the State Budget Act of 2020 (Senate Bill 74) and administered by the Board of State and Community Corrections (hereafter referred to as the BSCC); and

**WHEREAS,** the Applicant, County of Monterey Public Defender, will receive an Indigent Defense Grant in the amount of \$637,000 to enhance attorney support and digital case management software, for the term February 15, 2021 to June 30, 2023;

**NOW, THEREFORE, BE IT RESOLVED,** that the Monterey County Board of Supervisors does hereby determine and declares as follows:

- a. Ratify the submittal of a grant application by the Monterey County Public Defender to the Board of State and Community Corrections (BSCC) for the Indigent Defense Grant Program in the amount of \$637,000.00 for funding of Public Defender's Attorney and Case Management Enhancement project (ACME); and
- b. Authorize the Public Defender or Assistant Public Defender to execute the Grant Agreement with BSCC, accepting an Indigent Defense Grant program award for a total grant amount of \$637,000.00, for developing and implementing an ACME project for the grant period February 15, 2021 through June 30, 2023; and
- c. Approve the delegation of authority to the Public Defender or Assistant Public Defender to act on the County's behalf to carry out and consummate all transactions contemplated during the grant period.

BE IT FURTHER RESOLVED, that grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

BE IT FURTHER RESOLVED that the County of Monterey Public Defender agrees to abide by the terms and conditions of the Grant Agreement as set forth by the BSCC.

 PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021, upon motion of Supervisor \_\_\_\_\_\_ by the following vote, to-wit:

AYES: NOES: **ABSENT:** 

•

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made an entered in the minutes thereof Minute Book , for the meeting on

Valerie Ralph, Clerk of the Board of Supervisors,

County of Monterey, State of California

By\_\_\_\_\_ Deputy



# **Indigent Defense Grant Program**

# **APPLICATION PACKAGE**

Proposals Due: February 5, 2021

Grant Period: February 15, 2021 to June 30, 2023



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### **PART I: GRANT INFORMATION**

### **Contact Information**

This Request for Applications (RFA) provides the information necessary to prepare an Application to the Board of State and Community Corrections (BSCC) for grant funds available through the Indigent Defense Grant Program. Any questions concerning the RFA must be submitted by email to: <u>IndigentDefenseGrant@bscc.ca.gov</u>.

### **Background Information**

The Budget Act of 2020 (Senate Bill 74) established the Indigent Defense Grant Program and appropriated \$10,000,000 in funding. Per the Budget Act, \$9,800,000 is available for grants to county Public Defenders and up to \$200,000 may be allocated for an evaluation of the Indigent Defense Grant Program.

### **Proposal Due Date and Submission Instructions**

Proposals must be received by 5:00 P.M. on Friday, February 5, 2021. Applicants must ensure the proposal package is signed with a digital signature **OR** a wet blue ink signature that is then scanned with the completed proposal package. Submit one (1) completed proposal package via email to: IndigentDefenseGrant@bscc.ca.gov.

### **Description of the Grant**

### **Grant Period**

Eligible applicants will be funded for a grant period commencing February 15, 2021 and ending June 30, 2023.

### **Eligibility to Apply**

The Indigent Defense Grant Program will be distributed among 19 counties with a population of 550,000 residents or fewer. Eligible applicants are identified below:

- 1. El Dorado County
- 2. Humboldt County
- 3. Imperial County
- 4. Lassen County
- 5. Marin County
- 6. Mendocino County
- 7. Merced County
- 8. Monterey County
- 9. Napa County
- 10. Nevada County

- 11. Santa Barbara County
- 12. Shasta County
- 13. Siskiyou County
- 14. Solano County
- 15. Sonoma County
- 16. Stanislaus County
- 17. Tulare County
- 18. Tuolumne County
- 19. Yolo County

### **Eligible Activities**

Funds awarded under the Indigent Defense Grant Program must be utilized to address the staffing, training, case management needs, or other attorney support of Public Defender Offices. In support of these efforts, each applicant will develop a Project Work Plan that identifies measurable project goals, objectives, and commensurate timelines (Appendix A).

### **Funding Information**

The State Budget Act of 2020 made \$9,800,000 available to county Public Defenders for an Indigent Defense Grant Program.

### **Funding Allocation**

Indigent Defense Grant Program funding will be allocated to counties as shown in Table I. A detailed funding chart is also provided as Appendix B.

	Table I: Funding Allocation Chart					
County	Allocation		County	Allocation		
El Dorado County	\$347,900		Santa Barbara County	\$637,000		
Humboldt County	\$416,500		Shasta County	\$347,900		
	• \$323,400 to PDO					
	• \$93,100 to ADO					
Imperial County	\$347,900		Siskiyou County	\$274,400		
Lassen County	\$274,400		Solano County	\$852,600		
				• \$637,000 to PDO		
				• \$215,600 to ADO		
Marin County	\$347,900		Sonoma County	\$882,000		
Mendocino County	\$416,500		Stanislaus County	\$1,127,000		
	• \$323,400 to PDO					
	• \$93,100 to ADO					
Merced County	\$984,900		Tulare County	\$637,000		
Monterey County	\$637,000		Tuolumne County	\$274,400		
Napa County	\$323,400		Yolo County	\$347,900		
Nevada County	\$323,400					

PDO - Public Defender Office ADO - Alternate Defender Office.

### Match Requirement

The Indigent Defense Grant Program does not have a match requirement.

### Supplanting

Supplanting is the deliberate reduction in the amount of federal, state, or local funds being appropriated to an existing program or activity because grant funds have been awarded for the same purposes. Supplanting is strictly prohibited for all BSCC grants. The Indigent Defense Grant Program shall be used to support new program activities or to augment or expand existing program activities but shall not be used to replace existing funds. When using outside funds as match, applicants must be careful not to supplant. It is the

responsibility of the grantee to ensure that supplanting does not occur. The grantee must keep clear and detailed financial records to show that grant funds are used only for allowable costs and activities.

### **General Grant Requirements**

### **Grant Agreement**

Applicants approved for funding by the BSCC Board are required to enter into a grant agreement with the BSCC. Grantees must agree to comply with all terms and conditions of the Grant Agreement. See Appendix C for a sample grant agreement (State of California: Contract and General Terms and Conditions). The terms and conditions of the grant agreement may change before execution.

The grant agreement start date is expected to be <u>February 15, 2021</u>. Grant agreements are considered fully executed only after they are signed by both the Grantee and the BSCC. Work, services and encumbrances cannot begin prior to the grant agreement start date. Work, services and encumbrances that occur after the start date but prior to grant agreement execution may not be reimbursed. Grantees are responsible for maintaining their grant agreement, all invoices, records and relevant documentation for at least three years after the final payment under the contract.

### **Governing Board Resolution**

Local governmental applicants must submit a resolution from their governing board addressing specified requirements as included in the sample Governing Board Resolution, which can be found in Appendix D. A signed resolution is not required at the time of proposal submission; however, grant recipients must have a resolution on file for the Indigent Defense Grant Program before a fully executed grant agreement can be completed.

### Invoices

Disbursement of grant funds occurs on a reimbursement basis for costs incurred during a reporting period. Grantees shall be paid in one lump sum. The State Controller's Office (SCO) will issue the warrant (check) to the individual designated on the Applicant Information Form as the Financial Officer for the grant. Grantees must submit invoices to the BSCC through an online process no later than 45 days following the end of the invoicing period. Grantees must maintain adequate supporting documentation for all costs claimed on invoices. BSCC staff will conduct a desk review process which requires grantees to submit electronic documentation to support all grant funds claimed during the invoicing period and on-site monitoring visits that will include a review of documentation maintained as substantiation for project expenditures.

Additional information about invoicing can be found in the BSCC Grant Administration Guide, located on the BSCC <u>website</u>.

### **Progress Reports and Evaluations**

Grant award recipients are required to submit progress reports, a Local Evaluation Plan and a Local Evaluation Report (Appendix E). Progress reports are a critical element in the monitoring and oversight process. The Local Evaluation Plan is a written document that describes how the project will be monitored and evaluated and shows how evaluation results will be used for project improvement and decision making. The Local Evaluation Report identifies whether the project was successful in achieving its goals and objectives.

Grantees that are unable to demonstrate that they are making sufficient progress toward project goals and objectives and that funds are being spent down in accordance with the Grant Award Agreement could be subject to the withholding of funds. Applicable forms and instructions will be available to grantees on the BSCC's website.

### **Grantee Orientation Process**

Following the start of the grant period, BSCC staff will conduct a virtual Grantee Orientation in April 2021. The purpose of this mandatory session is to review the program requirements, invoicing and budget modification processes, data collection and reporting requirements, as well as other grant management and monitoring activities. Typically, the Project Director, Financial Officer, Day-to-Day Contact, and service providers attend.

### Travel

Travel is usually warranted when personal contact by project-related personnel is the most appropriate method of completing project-related business. The most economical method of transportation, in terms of direct expenses to the project and the project-related personnel's time away from the project, must be used. Grantees are required to include sufficient per diem and travel allocations for project-related personnel to attend any required BSCC training conferences or workshops as described in the Request for Applications and Grant Agreement.

### **Units of Government**

Grantees that are units of government using BSCC funds may follow either their own written travel and per diem policy or the California State travel and per diem policy. Units of government that plan to use cars from a state, county, city, district carpool, or garage may budget either the mileage rate established by the carpool or garage, or the state mileage rate, not to exceed the loaning agency.

### **Out-of-State Travel**

Out-of-state travel is generally restricted and only allowed in exceptional situations. Grantees must receive written BSCC approval prior to incurring expenses for outof-state travel. Even if previously authorized in the Grant Agreement, Grantees must submit a separate written request on Grantee letterhead for approval to the assigned BSCC Field Representative. Out-of-state travel requests must include a detailed justification and budget information.

In addition, California prohibits travel, except under specified circumstances, to states that have been found by the California Attorney General to have discriminatory laws. The BSCC will not reimburse for travel to these states unless the travel meets a specific exception under Government Code section 11139.8, subdivision (c). For additional information, please see: <u>https://oag.ca.gov/ab1887</u>.

### **Compliance Monitoring Visits**

The BSCC staff will monitor each project to assess whether the project is in compliance with grant requirements and making progress toward grant objectives. As needed, monitoring visits may also occur to provide technical assistance on fiscal, programmatic, evaluative, and administrative requirements.

### **Overview of the RFA Process**

### **Confirmation of Receipt of Application**

Upon submission of a proposal, applicants will receive a confirmation email from the BSCC stating that the proposal has been received. The email will be sent to the individual that signed the application and the person listed as the Project Director.

### **Review Process**

BSCC staff will review each application for compliance with the criteria in this RFA.

### Summary of Key Dates

The following table shows a timeline of key dates related to the RFA

Activity	Date
Release Request for Applications	January 21, 2021
Proposals Due to the BSCC	February 5, 2021
New Grants Begin	February 15, 2021
Mandatory New Grantee Orientation	April 2021

### **PART II: PROPOSAL INSTRUCTIONS**

This section contains pertinent information for completing the Indigent Defense Grant Program application and attachments.

### **Proposal Description and Budget Instructions**

### **Proposal Description**

Provide a one-page proposal that describes the proposed project. Funds awarded under the Indigent Defense Grant Program must be utilized to address the staffing, training, and case management needs of Public Defender Offices.

### **Budget Section**

As part of the application process, applicants are required to submit an Indigent Defense Grant Program Attachment, which is an Excel Workbook.

Applicants should be aware that budgets will be subject to review and approval by the BSCC staff to ensure all proposed costs listed within the budget narrative are allowable and eligible for reimbursement. Regardless of any ineligible costs that may need to be addressed post award, the starting budget for the reimbursement invoices and the total amount requested will be the figures used for the Standard Grant Agreement.

Applicants are solely responsible for the accuracy and completeness of the information entered in the Budget Table and Budget Narrative. Detailed instructions for completing the Budget Attachment are listed on the Instructions tab of the Excel workbook. All project costs must be directly related to the objectives and activities of the project. The Budget Table must cover the entire grant period (February 15, 2021 - June 30, 2023).

For additional guidance related to grant budgets, refer to the **BSCC** 

Grant Administration Guide.

### PART III: APPLICATION AND APPENDIXES

### Application

This section includes the following:

- Proposal Package Cover Sheet
- Applicant Information Form: Instructions
- Applicant Information Form
- Project Description

### **Appendixes**

This section includes the following appendixes:

- Appendix A Project Work Plan
- Appendix B Funding Allocation Chart
- Appendix C Sample Grant Agreement
- Appendix D Governing Board Resolution
- Appendix E Evaluation Guidelines

# **Indigent Defense Grant Program**

# PROPOSAL PACKAGE COVER SHEET

Submitted by: Monterey County Public Defender

> Date Submitted: February 4, 2021

> > Page 10

### **Applicant Information Form: Instructions**

- **A. Applicant:** Complete the required information for the agency submitting the form (i.e. <NAME> Public Defender's Office).
- **B.** Tax Identification Number: Provide the tax identification number of the Applicant.
- C. Project Title: Provide the title of the project.
- **D. Project Summary:** Provide a summary (100-150 words) of the proposal. Note: this information will be posted to the BSCC's website for informational purposes.
- E. Grant Funds Requested: See Budget Attachment or last page.
- **F. Project Director:** Provide the name, title and contact information for the individual responsible for oversight and management of the project. This person must be an employee of the Grantee.
- **G. Financial Officer:** Provide the name, title and contact information for the individual responsible for fiscal oversight and management of the project. Typically, this is the individual that will certify and submit invoices. This person must be an employee of the Grantee.
- **H. Day-to-Day Project Contact:** Provide the name, title and contact information for the individual who serves as the primary contact person for the grant. Typically, this individual has day-to-day oversight for the project. This person must be an employee of the Grantee.
- I. Day-to-Day Fiscal Contact: Provide the name, title and contact information for the individual who serves as the primary contact person for fiscal matters related to the grant. This may be the individual who prepares the invoices for approval by the Financial Officer. This person must be an employee of the Grantee.
- **J. Authorized Signature:** Complete the required information for the person authorized to sign for the Applicant. This individual must read the assurances under this section, then sign and date in the appropriate fields.

# Applicant Information Form

A. APPLICANT < Name> Pu	blic Defender's Office	B. TAX IDENTIF	ICATION NUMBE	R
NAME OF APPLICANT		TAX IDENTIFIC	ATION #:	
County of Monterey, Public	Defender's Office	94-6000524		
STREET ADDRESS	CITY		STATE	ZIP CODE
168 W. Alisal, 2 <sup>nd</sup> Floor	Salinas		CA	93901
MAILING ADDRESS (if differer	t) CITY		STATE	ZIP CODE
C. PROJECT TITLE:	Attorney and Case Manage	ement Enhancem	ent (ACME)	
D. PROJECT SUMMARY	(100-150 words):			
The ACME project will use E and enhance the digital case digital case management so cellular phones of our clients court and our clients. Our c transcripts that will allow our Our carbon-based case files eliminating our current 5-10- nationally recognized trial se E. GRANT FUNDS REQU	e management software curr ftware will be augmented wi s to alert them to upcoming of urrent software will also be a attorneys to better and mor that are currently stored off day delivery time. Additiona kills colleges. ESTED:	rently in use by the th an auto-text pro- court dates, thereb augmented to crea re efficiently prepa f-site will be digitized	Public Defender's gram that will send by better assuring I te a searchable re re for matters invol ed and stored for a	s Office. Our current d text messages to the egal expediency for the pository of court lving recurring witnesses. attorney access, thereby
See Budget Attachment or I	_ast Page			
\$ 637,000				
F. PROJECT DIRECTOR:				
NAME	TITLE		ELEPHONE NUMBE	R
Jeremy Dzubay	Assistant Public Def		31.755.5824	
STREET ADDRESS 168 W. Alisal St., 2 <sup>nd</sup> Floor			AX NUMBER 31.755.5873	
CITY	STATE	ZIP CODE	EMAIL ADDR	ESS
Salinas	CA	93901	dzubayjc@co	o.monterey.ca.us
G. FINANCIAL OFFICER:				
NAME	TITLE	TE	ELEPHONE NUMBE	R
Latasha Ellis-Bowers	Finance Manager	83	31.755.5082	
STREET ADDRESS			AX NUMBER	
168 W. Alisal St., 2 <sup>nd</sup> Floor		83	31.755.5873	
CITY	STATE	ZIP CODE	EMAIL ADDR	
Salinas	CA	93901		L@co.monterey.ca.us
PAYMENT MAILING ADDRES	S (if different) CITY		STATE	ZIP CODE
H. DAY-TO-DAY PROGRA				
	AM CONTACT: TITLE	TE		R
H. DAY-TO-DAY PROGRA			ELEPHONE NUMBE 31.796.3048	R
H. DAY-TO-DAY PROGRA	TITLE	st 83		R
H. DAY-TO-DAY PROGRA NAME Becky Avila	TITLE	st 83 FA	31.796.3048	R
H. DAY-TO-DAY PROGRA NAME Becky Avila STREET ADDRESS	TITLE	st 83 FA	31.796.3048 AX NUMBER 31.755.5873 EMAIL ADDRE	

I. DAY-TO-DAY FISCAL	ONTACT:		
NAME	TITLE	TEI	EPHONE NUMBER
Latasha Ellis-Bowers	Finance Manager 831.755.5082		
STREET ADDRESS 168 W. Alisal St., 2 <sup>nd</sup> Floor	FAX NUMBER 831.755.5873		
CITY Salinas	STATE CA	ZIP CODE 93901	EMAIL ADDRESS Ellis-BowersLL@co.monterey.ca.us

#### J. AUTHORIZED SIGNATURE

By signing this application, I hereby certify that I am vested by the Applicant with the authority to enter into contract with the BSCC, and that the grantee and any subcontractors will abide by the laws, policies and procedures governing this funding.

NAME OF AUTHORIZED OFFICER	TITLE	TELEPHONE NUMBER	EMAIL ADDRESS		
Susan Chapman	Public Defender	831,755,5806	ChapmanSE@co.monterey.ca		
			.US		
STREET ADDRESS	CITY	STATE	ZIP CODE		
168 W. Alisal St., 2 <sup>nd</sup> Floor	Salinas	CA	93901		
EMAIL ADDRESS ChapmanSE@co.monterey.ca.us					
APPLICANT'S SIGNATURE (Signed by the authorized signatory with a digital signature OR a wet signature in blue ink.)					
× Ausan Elling			02.03.2021		

\*Authorized Signature: Must be a representative with the authority to sign documents and obligate the applicant\*

### **CONFIDENTIALITY NOTICE**

All documents submitted as a part of the Indigent Defense Grant Program application are public documents and may be subject to a request pursuant to the California Public Records Act. The BSCC, as a state agency, may have to disclose these documents to the public. The BSCC cannot ensure the confidentiality of any information submitted in or with this proposal. (Gov. Code, §§ 6250 et seq.)

### **Project Description**

### Provide a one-page description of the proposed project in the space provided below.

The County of Monterey Public Defender's Attorney and Case Management Enhancement (ACME) project will enhance attorney support for indigent client defense by adding a searchable database to our current paperless digital case management system, streamlining the amount of time the court and client wait for the delivery of paper documents that are stored in offsite locations, and automatically sending text messages to remind indigent clients of the time and place of their upcoming court dates.

The use of BSCC grant funds will result in a more efficient case management system that will benefit the court and our defense of indigent clients. Further outcomes will include attorneys allocating more of their time to ensure positive client outcomes by (1) reducing the time attorneys spend in digitizing and automating duties; and (2) reducing re-calendaring court dates caused by client non-appearances; (3) reducing the time attorneys spend in searching for testimony of recurring witnesses (to the point of creating a searchable case database, having information quickly at hand will let attorneys efficiently determine the validity of prior conviction allegations, identify client eligibility for all types of postconviction relief, and rapidly transfer case materials to subsequent counsel for appeal and writ matters; and (4) improving our method of measuring attorney workloads, thereby redistributing caseloads to achieve workload efficiencies.

Additionally, a portion of the grant will be used to fund attendance and travel for attorneys to attend one of several national recognized trial skills colleges.

In addition to the goals and related outcomes listed above, the ACME project includes the purchase and installation of hardware and software and software training for attorneys. Our plan includes an assistant Public Defender as project director, a designated financial officer, designated day-to-day project and fiscal contacts, and oversight provided by our Public Defender.

### Appendix A: Project Work Plan

This Project Work Plan identifies measurable goals and objectives, activities and services, the responsible parties and a timeline. Completed plans should (1) identify the project's **top goals and objectives** (minimum of two); (2) identify how the top goals will be achieved in terms of the activities, responsible staff/partners, and start and end dates; and (3) provide goals and objectives with a clear relationship to the need and intent of the grant. Please provide a project workplan in the below fields.

(1) Goal:	Create auto-text program that will utilize information within the case management system to generate and send text messages to clients alerting them to upcoming court dates, times, and locations.			
Objectives (A., B., etc.)	A. Reduce the rate of appearance failures by our clients. B. Reduce the issuance of bench warrants for our clients. C. Reduce the incarceration rate of our clients			
Project activities that sup	port the identified goal	Responsible staff/partners	Tir	neline
and objectives:			Start Date	End Date
<ol> <li>Text software develops</li> <li>Attorney training</li> <li>Case management interview</li> </ol>		Becky Avila Jeremy Dzubay Karpel Solutions	March 1, 2021	August 1, 2022

(2) Goal:	Create a searchable da and court hearings.	atabase within the case management system of cou	rt transcripts from prelir	ninary examinations, trials,
Objectives (A., B., etc.)	<ul> <li>A. Reduce attorney preparation time for contested hearings by having transcript files in one location.</li> <li>B. Provide attorney support for impeachment material for recurring witnesses</li> <li>C. Improve client outcomes through more effective litigation due to the time-saving results of this activity.</li> </ul>			
Project activities that sup	port the identified goal	Responsible staff/partners	Ti	meline
and objectives:	_		Start Date	End Date
1. Incorporate OCR into c 2. Establish fields for tran		Becky Avila Jeremy Dzubay	March 1, 2021	December 31, 2022
3. Attorney training on ac		Karpel Solutions		

(3) Goal:	Digitize old files and store them in a searchable database accessible to attorneys.			
Objectives (A., B., etc.)	<ul> <li>A. Give attorneys immediate information to determine the validity of alleged priors.</li> <li>B. Support attorneys in analyzing client eligibility for post-conviction relief.</li> <li>C. Reduce attorney wait-time for file access</li> </ul>			
Project activities that sup and objectives:	Project activities that support the identified goal Responsible staff/partners Timeline Start Date End Date		imeline End Date	
<ol> <li>Scanning of old files</li> <li>Creation of searchabl</li> <li>Procurement of digita</li> </ol>		Jeremy Dzubay	March 1, 2021	June 1, 2023

(4) Goal:	Modify current case management system to add metrics and efficiencies to attorney reports			
Objectives (A., B., etc.)	A. More accurately measure attorney workloads. B. Redistribute caseloads to achieve workload efficiency			
Project activities that sup	Project activities that support the identified goal Responsible staff/partners Timeline			meline
and objectives:			Start Date	End Date
1. Identify fields for workl	oad measurement	Jeremy Dzubay		
2. Combine fields to create measurable metrics 3. Incorporate metrics into attorney reportsBecky Avila Karpel SolutionsMarch 1, 2021June 1, 2023		June 1, 2023		

### Appendix B: Funding Allocation

Please reference the below chart to determine the total available county an applicant may request. Please request the full amount of funding identified.

County	Available Funding	Allocation Breakdown
El Dorado County	\$347,900	N/A
Humboldt County	\$416,500	\$323,400 to PDO \$93,100 to ADO
Imperial County	\$347,900	N/A
Lassen County	\$274,400	N/A
Marin County	\$347,900	N/A
Mendocino County	\$416,500	\$323,400 to PDO \$93,100 to ADO
Merced County	\$984,900	N/A
Monterey County	\$637,000	N/A
Napa County	\$323,400	N/A
Nevada County	\$323,400	N/A
Santa Barbara County	\$637,000	N/A
Shasta County	\$347,900	N/A
Siskiyou County	\$274,400	N/A
Solano County	\$852,600	\$637,000 to PDO \$215,600 to ADO
Sonoma County	\$882,000	N/A
Stanislaus County	\$1,127,000	N/A
Tulare County	\$637,000	N/A
Tuolumne County	\$274,400	N/A
Yolo County	\$347,900	N/A
Grand Total	\$9,800,000	

PDO - Public Defender's Office ADO - Alternate Defender's Office

### Appendix C: Sample Grant Agreement

STATE OF CALIFORNIA DEPARTMENT OF	F GENERAL SERVICES	S	CO ID:
STANDARD AGREEMENT STD 213 (Rev 03/2019)	AGREEMENT NUMBER BSCC XXX- 20	PURCHASING AUTHORITY NU	MBER (If Applicable)
1. This Agreement is entered in	to between the Contracting Age	ency and the Contractor named	l below:
CONTRACTING AGENCY NAME			
BOARD OF STATE AND COM	MUNITY CORRECTIONS		
CONTRACTOR NAME			
XXX			
2. The term of this Agreemer	nt is:		
START DATE			
February 15, 2021			
THROUGH END DATE			
June 30, 2023			
3. The maximum amount of this	s Agreement is:		
\$000,000.00			
	with the terms and conditions o reference made a part of the A		nents, and
EXHIBITS	TITL	Ē	PAGES
Exhibit A	Scope of Work		3
Exhibit B	Budget Detail and Payment Pr	rovisions	3
Exhibit C	General Terms and Conditions	s (04/2017)	4
Exhibit D	Special Terms and Conditions		4
Attachment 1	Indigent Defense Grant Progra	am Application Package	х
Attachment 2	Indigent Defense Grant Progra	am Evaluation Guidelines	х

#### CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

### GRANTEE NAME

CONTRACTOR BUSINESS ADDRESS	CITY	STATE	ZIP
XXX	XXX	XX	XXX
PRINTED NAME OF PERSON SIGNING	TITLE		
XXX	XXX		
CONTRACTOR AUTHORIZED	DATE SIGNED		
£			

#### STATE OF CALIFORNIA

### CONTRACTING AGENCY NAME

### BOARD OF STATE AND COMMUNITY CORRECTIONS

CONTRACTING AGENCY ADDRESS	CITY	STATE	ZIP
2590 Venture Oaks Way, Suite 200	Sacramento	CA	95833
PRINTED NAME OF PERSON SIGNING	TITLE		
RICARDO GOODRIDGE	Deputy Director		
CONTRACTING AGENCY AUTHORIZED	DATE SIGNED		
<u>E</u>			
CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL: EXEMPT PER SCM, VOLUME 1, CH. 4.06			

### EXHIBIT A: SCOPE OF WORK

#### 1. GRANT AGREEMENT – Indigent Defense Grant Program

This Grant Agreement is between the State of California, Board of State and Community Corrections (hereafter referred to as BSCC) and Grantee Name (hereafter referred to as the Grantee or Contractor).

### 2. PROJECT SUMMARY AND ADMINISTRATION

- A. The State Budget Act of 2020 (Senate Bill 74) appropriated funding for indigent defense grants to eligible county Public Defenders' Offices and for an evaluation of the Indigent Defense Grant Program. Funding for indigent services can be used to help address the staffing, training, case management needs, or other attorney support of California Public Defender Offices in counties with a population of 550,000 residents or fewer.
- B. Grantee agrees to administer the project in accordance with Attachment 1: Indigent Defense Application Package, which is attached and hereto and made part of this agreement.

### 3. PROJECT OFFICIALS

- A. The BSCC's Executive Director or designee shall be the BSCC's representative for administration of the Grant Agreement and shall have authority to make determinations relating to any controversies that may arise under or regarding the interpretation, performance, or payment for work performed under this Grant Agreement.
- B. The Grantee's project officials shall be those identified as follows:

Authorized Officer with legal authority to sign:

Name:	XXX
Title:	XXX
Address:	XXX
Phone:	XXX

Designated Financial Officer authorized to receive warrants:

Name:	XXX
Title:	XXX
Address:	XXX
Phone:	XXX
Email:	ХХХ

**Project Director** authorized to administer the project:

ххх
ххх
ххх
ххх
XXX

- C. Either party may change its project representatives upon written notice to the other party.
- D. By signing this Grant Agreement, the Authorized Officer listed above warrants that he or she has full legal authority to bind the entity for which he or she signs.

### EXHIBIT A: SCOPE OF WORK

### 4. DATA COLLECTION AND EVALUATION REQUIREMENTS

Grantees will be required to comply with all data collection, evaluation, and reporting requirements of the Indigent Defense Grant Program. This includes the timely submission of progress reports, Local Evaluation Plan, and Local Evaluation Report to the State Public Defender's Office.

The BSCC plans to contract with an outside evaluator for a statewide evaluation of the impact of the projects funded by the Indigent Defense Grant Program in consultation with the State Public Defender's Office. The contractor is expected to: design and develop instruments for collecting progress information from grantees; develop the research methodology for the statewide evaluation; design and develop instruments for collecting evaluation data from grantees; provide ongoing technical assistance to grantees for data collection and evaluation activities; compile, screen, and analyze data obtained from grantees; and develop a final report on the impact of the Indigent Defense Grant Program.

#### 5. REPORTING REQUIREMENTS

A. Bi-Annual Progress Reports (twice a year)

Grantees will submit progress reports to the State Public Defender's Office in a format prescribed by the outside evaluator in consultation with the BSCC. Questions about the Bi-Annual Progress Reports shall be directed to the outside evaluator and the State Public Defender's Office These reports, which will describe progress made on program objectives and include required data, shall be submitted according to the following schedule

### **Progress Report Periods**

- 1. February 15, 2021 to June 30, 2021
- 2. July 1, 2021 to December 31, 2021
- 3. January 1, 2022 to June 30, 2022
- 4. July 1, 2022 to December 31, 2022
- 5. January 1, 2023 to June 30, 2023

#### **B. Evaluation Documents**

- 1. Local Evaluation Plan
- 2. Local Evaluation Report

### 6. PROJECT RECORDS

### Due no later than:

August 15, 2021 February 15, 2022 August 15, 2022 February 15, 2023 August 15, 2023

#### Due no later than:

August 30, 2021 December 31, 2023

- A. The Grantee shall establish an official file for the project. The file shall contain adequate documentation of all actions taken with respect to the project, including copies of this Grant Agreement, approved program/budget modifications, financial records and required reports.
- B. The Grantee shall establish separate accounting records and maintain documents and other evidence sufficient to properly reflect the amount, receipt, and disposition of all project funds, including grant funds and any matching funds by the Grantee and the total cost of the project. Source documentation includes copies of all awards, applications, approved modifications, financial records and narrative reports.
- C. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the grant, whether they are employed full-time or part-time. Time and effort reports are also required for all subcontractors and consultants.

### EXHIBIT A: SCOPE OF WORK

- D. The grantee shall maintain documentation of donated goods and/or services, including the basis for valuation.
- E. Grantee agrees to protect records adequately from fire or other damage. When records are stored away from the Grantee's principal office, a written index of the location of records stored must be on hand and ready access must be assured.
- F. All Grantee records relevant to the project must be preserved a minimum of three (3) years after closeout of the grant project and shall be subject at all reasonable times to inspection, examination, monitoring, copying, excerpting, transcribing, and auditing by the BSCC or designees. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records must be retained until the completion of the action and resolution of all issues which arise from it or until the end of the regular three-year period, whichever is later.

### **EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS**

#### 1. INVOICING AND PAYMENTS

A. The Grantee shall be paid in one lump sum by submitting an invoice (Form 201) to the BSCC. Grantee shall only use grant funds for allowable costs (see Exhibit B, "Project Costs") and shall provide statements of expenditures and supporting documentation to the BSCC upon request and on a quarterly basis as set forth in the schedule below.

### **Quarterly Invoicing Periods:**

- 1. February 15, 2021 to March 31, 2021
- 2. April 1, 2021 to June 30, 2021
- 3. July 1, 2021 to September 30, 2021
- 4. October 1, 2021 to December 31, 2021
- 5. January 1, 2022 to March 31, 2022
- 6. April 1, 2022 to June 30, 2022
- 7. July 1, 2022 to September 30, 2022
- 8. October 1, 2022 to December 31, 2022
- 9. January 1, 2023 to March 31, 2023
- 10. April 1, 2023 to June 30, 2023

### Final Invoicing Periods:

11. July 1, 2023 to September 30, 2023

12. October 1, 2023 to December 31, 2023

#### Due no later than:

May 15, 2021 August 15, 2021 November 15, 2021 February 15, 2022 May 15, 2022 August 15, 2022 November 15, 2022 February 15, 2023 May 15, 2023 August 15, 2023

**Due no later than:** November 15, 2023 February 29, 2024

\*Note: Only expenditures associated with completion of a Final Local Evaluation Report may be included on these last two invoices (11 and 12).

- B. All project expenditures (excluding costs associated with the completion of a Final Local Evaluation Report) must be incurred by the end of the grant project period, June 30, 2023, and included on the invoice due August 15, 2023. Project expenditures incurred after June 30, 2023 will not be reimbursed.
- C. The Final Local Evaluation Report is due to the State Public Defender's Office by December 31, 2023. Expenditures incurred for the completion of the Final Local Evaluation Report during the period of July 1, 2023 to December 31, 2023 must be submitted during the Final Invoicing Period(s), with the final invoice due on February 29, 2024. Supporting fiscal documentation will be required for all expenditures claimed on during the Final Invoicing Periods and must be submitted with the final invoice.
- D. Grantee shall submit an invoice to the BSCC each invoicing period, even if grant funds are not expended or requested during the invoicing period. If applicable, grantees may submit an invoice with a \$0 claim.
- E. Upon the BSCC's request, supporting documentation must be submitted for project expenditures. Grantees are required to maintain supporting documentation for all expenditures on the project site for the life of the grant and make it readily available for review during BSCC site visits. See Exhibit A. Scope of Work, Item 6. Project Records.
- F. Any unspent funds remaining at the end of the agreement term, including any interest earned, must be returned to the BSCC within 30 days of the submission of the final invoice.

### 2. GRANT AMOUNT AND LIMITATION

### **EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS**

- A. In no event shall the BSCC be obligated to pay any amount in excess of the grant award. Grantee waives any and all claims against the BSCC, and the State of California on account of project costs that may exceed the sum of the grant award.
- B. Under no circumstance will a budget item change be authorized that would cause the project to exceed the amount of the grant award identified in this Grant Agreement.

### 3. BUDGET CONTINGENCY CLAUSE

- A. This grant agreement is valid through Indigent Defense funding generated from the General Fund. The Grantee agrees that the BSCC's obligation to pay any sum to the grantee under any provision of this agreement is contingent upon the availability of sufficient funding granted through the passage of the Budget Act of 2020 (Senate Bill 74). It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Grant Agreement does not appropriate sufficient funds for the program, this Grant Agreement shall be of no further force and effect. In this event, the BSCC shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Grant Agreement.
- B. If Indigent Defense funding is reduced or falls below estimates contained within the Indigent Defense Application Package, the BSCC shall have the option to either cancel this Grant Agreement with no liability occurring to the BSCC or offer an amendment to this agreement to the Grantee to reflect a reduced amount.
- C. If BSCC cancels the agreement pursuant to Paragraph 3(B) or Grantee does not agree to an amendment in accordance with the option provided by Paragraph 3(B), it is mutually agreed that the Grant Agreement shall have no further force and effect. In this event, the BSCC shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Grant Agreement except that Grantee shall be required to maintain all project records required by Paragraph 6 of Exhibit A for a period of three (3) years following the termination of this agreement.

### 4. PROJECT COSTS

A. Grantee is responsible for ensuring that actual expenditures are for eligible project costs. "Eligible" and "ineligible" project costs are set forth in the July 2020 BSCC Grant Administration Guide, which can be found under Quick Links here:

https://www.bscc.ca.gov/s\_correctionsplanningandprograms/

The provisions of the BSCC Grant Administration Guide are incorporated by reference into this agreement and Grantee shall be responsible for adhering to the requirements set forth therein. To the extent any of the provisions of the BSCC Grant Administration Guide and this agreement conflict, the language in this agreement shall prevail.

- B. Grantee is responsible for ensuring that invoices submitted to the BSCC claim actual expenditures for eligible project costs.
- C. Grantee shall, upon demand, remit to the BSCC any grant funds not expended for eligible project costs or an amount equal to any grant funds expended by the Grantee in violation of the terms, provisions, conditions or commitments of this Grant Agreement.
- D. Grant funds must be used to support new program activities or to augment existing funds that expand current program activities. Grant funds shall not replace (supplant) any federal, state and/or local funds that have been appropriated for the same purpose. Violations can result in recoupment of monies provided under this grantor suspension of future program funding through BSCC grants.

### **EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS**

### 5. PROMPT PAYMENT CLAUSE

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

### 6. WITHHOLDING OF GRANT DISBURSEMENTS

- A. The BSCC may withhold all or any portion of the grant funds provided by this Grant Agreement in the event the Grantee has materially and substantially breached the terms and conditions of this Grant Agreement.
- B. At such time as the balance of state funds allocated to the Grantee reaches five percent (5%), the BSCC may withhold that amount as security, to be released to the Grantee upon compliance with all grant provisions, including:
  - 1) submittal and approval of the final invoice;
  - 2) submittal and approval of the final progress report; and
  - 3) submittal and approval of any additional required reports, including but not limited to a potential Final Local Evaluation Report.
- C. The BSCC will not reimburse Grantee for costs identified as ineligible for grant funding. If grant funds have been provided for costs subsequently deemed ineligible, the BSCC may either withhold an equal amount from future payments to the Grantee or require repayment of an equal amount to the State by the Grantee.
- D. In the event that grant funds are withheld from the Grantee, the BSCC's Executive Director or designee shall notify the Grantee of the reasons for withholding and advise the Grantee of the time within which the Grantee may remedy the failure or violation leading to the withholding.

Budget Line Items	Grant Funds
1. Salaries and Benefits	\$0
2. Services and Supplies	\$0
3. Professional Services or Public Agency Subcontracts	\$0
4. Non-Governmental Organization (NGO) Subcontracts	\$0
5. Equipment/Fixed Assets	\$0
6. Data Collection and Progress Reporting	\$0
7. Other (Travel, Training, etc.)	\$0
8. Indirect Costs	\$0
TOTALS	\$0

### 7. PROJECT BUDGET

- 1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
- 2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
- **3. ASSIGNMENT:** This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
- 4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
- 5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
- 6. **DISPUTES:** Contractor shall continue with the responsibilities under this Agreement during any dispute.
- 7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
- 8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
- 9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
- **10. NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation,

or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

- **11. CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document <u>CCC 04/2017</u> are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
- 12. TIMELINESS: Time is of the essence in this Agreement.
- **13. COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
- **14. GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
- **15. ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
  - A. The Government Code Chapter on Antitrust claims contains the following definitions:
    - "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
    - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
  - B. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

- C. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
- **16. CHILD SUPPORT COMPLIANCE ACT:** For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:
  - A. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
  - B. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- **17. UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
- 18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

# 19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- A. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- B. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

**20. LOSS LEADER:** If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

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### **EXHIBIT D: SPECIAL TERMS AND CONDITIONS**

### 1. GRANTEE'S GENERAL RESPONSIBILITY

- A. Grantee agrees to comply with all terms and conditions of this Grant Agreement. Review and approval by the BSCC are solely for the purpose of proper administration of grant funds and shall not be deemed to relieve or restrict the Grantee's responsibility.
- B. Grantee is responsible for the performance of all project activities identified in Attachment 1: Indigent Defense Application Package.
- C. Grantee shall immediately advise the BSCC of any significant problems or changes that arise during the course of the project.

### 2. GRANTEE ASSURANCES AND COMMITMENTS

A. Compliance with Laws and Regulations

This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California. Grantee shall at all times comply with all applicable State laws, rules and regulations, and all applicable local ordinances.

B. Fulfillment of Assurances and Declarations

Grantee shall fulfill all assurances, declarations, representations, and statements made by the Grantee in Attachment 1: Indigent Defense Application Package, documents, amendments, approved modifications, and communications filed in support of its request for grant funds.

### C. Permits and Licenses

Grantee agrees to procure all permits and licenses necessary to complete the project, pay all charges and fees, and give all notices necessary or incidental to the due and lawful proceeding of the project work.

### 3. POTENTIAL SUBCONTRACTORS

- A. In accordance with the provisions of this Grant Agreement, the Grantee may subcontract for services needed to implement and/or support program activities. Grantee agrees that in the event of any inconsistency between this Grant Agreement and Grantee's agreement with a subcontractor, the language of this Grant Agreement will prevail.
- B. Nothing contained in this Grant Agreement or otherwise, shall create any contractual relation between the BSCC and any subcontractors, and no subcontract shall relieve the Grantee of his responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to the BSCC for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its subcontractors is an independent obligation from the BSCC's obligation to make payments to the Grantee. As a result, the BSCC shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
- C. Grantee assures that for any subcontract awarded by the Grantee, such insurance and fidelity bonds, as is customary and appropriate, will be obtained.
- D. Grantee agrees to place appropriate language in all subcontracts for work on the project requiring the Grantee's subcontractors to:
  - 1) Books and Records

Maintain adequate fiscal and project books, records, documents, and other evidence pertinent to the subcontractor's work on the project in accordance with generally accepted accounting principles. Adequate supporting documentation shall be maintained in such detail so as to permit tracing transactions from the invoices, to the

# **EXHIBIT D: SPECIAL TERMS AND CONDITIONS**

accounting records, to the supporting documentation. These records shall be maintained for a minimum of three (3) years after the acceptance of the final grant project audit under the Grant Agreement and shall be subject to examination and/or audit by the BSCC or designees, state government auditors or designees, or by federal government auditors or designees.

2) Access to Books and Records

Make such books, records, supporting documentations, and other evidence available to the BSCC or designee, the State Controller's Office, the Department of General Services, the Department of Finance, California State Auditor, and their designated representatives during the course of the project and for a minimum of three (3) years after acceptance of the final grant project audit. The Subcontractor shall provide suitable facilities for access, monitoring, inspection, and copying of books and records related to the grant-funded project.

## 4. PROJECT ACCESS

Grantee shall ensure that the BSCC, or any authorized representative, will have suitable access to project activities, sites, staff and documents at all reasonable times during the grant period including those maintained by subcontractors. Access to program records will be made available by both the grantee and the subcontractors for a period of three (3) years following the end of the grant period.

## 5. ACCOUNTING AND AUDIT REQUIREMENTS

A. Grantee agrees that accounting procedures for grant funds received pursuant to this Grant Agreement shall be in accordance with generally accepted government accounting principles and practices, and adequate supporting documentation shall be maintained in such detail as to provide an audit trail. Supporting documentation shall permit the tracing of transactions from such documents to relevant accounting records, financial reports and invoices.

The BSCC reserves the right to call for a program or financial audit at any time between the execution of this Grant Agreement and three years following the end of the grant period. At any time, the BSCC may disallow all or part of the cost of the activity or action determined to not be in compliance with the terms and conditions of this Grant Agreement or take other remedies legally available.

## 6. MODIFICATIONS

No change or modification in the project will be permitted without prior written approval from the BSCC. Changes may include modification to project scope, changes to performance measures, compliance with collection of data elements, and other significant changes in the budget or program components contained in Attachment 1: Indigent Defense Application Package.

## 7. TERMINATION

- A. This Grant Agreement may be terminated by the BSCC at any time after grant award and prior to completion of project upon action or inaction by the Grantee that constitutes a material and substantial breech of this Grant Agreement. Such action or inaction includes but is not limited to:
  - 1) substantial alteration of the scope of the grant project without prior written approval of the BSCC;

# **EXHIBIT D: SPECIAL TERMS AND CONDITIONS**

- 2) refusal or inability to complete the grant project in a manner consistent with Attachment 1: Indigent Defense Application Package or approved modifications;
- 3) failure to provide the required local match share of the total project costs; and
- 4) failure to meet prescribed assurances, commitments, recording, accounting, auditing, and reporting requirements of the Grant Agreement.
- B. Prior to terminating the Grant Agreement under this provision, the BSCC shall provide the Grantee at least 30 calendar days written notice stating the reasons for termination and effective date thereof. The Grantee may appeal the termination decision in accordance with the instructions listed in Exhibit D: Special Terms and Conditions, Number 8. Settlement of Disputes.

## 8. SETTLEMENT OF DISPUTES

- A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Grantee shall submit to the BSCC Corrections Planning and Grant Programs Division Deputy Director a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Grant Agreement. Grantee's written demand shall be fully supported by factual information. The BSCC Corrections Planning and Grant Programs Division Deputy Director shall have 30 days after receipt of Grantee's written demand invoking this Section "Disputes" to render a written decision. If a written decision is not rendered within 30 days after receipt of the Grantee's demand, it shall be deemed a decision adverse to the Grantee's contention. If the Grantee is not satisfied with the decision of the BSCC Corrections Planning and Grant Programs Division Deputy Director, the Grantee may appeal the decision, in writing, within 15 days of its issuance (or the expiration of the 30day period in the event no decision is rendered), to the BSCC Executive Director, who shall have 45 days to render a final decision. If the Grantee does not appeal the decision of the BSCC Corrections Planning and Grant Programs Division Deputy Director, the decision shall be conclusive and binding regarding the dispute and the Contractor shall be barred from commencing an action in court, or with the Victims Compensation Government Claims Board, for failure to exhaust Grantee's administrative remedies.
- B. Pending the final resolution of any dispute arising under, related to or involving this Grant Agreement, Grantee agrees to diligently proceed with the performance of this Grant Agreement, including the providing of services in accordance with the Grant Agreement. Grantee's failure to diligently proceed in accordance with the State's instructions regarding this Grant Agreement shall be considered a material breach of this Grant Agreement.
- C. Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Executive Director, if an appeal was made. If the Executive Director fails to render a final decision within 45 days after receipt of the Grantee's appeal for a final decision, it shall be deemed a final decision adverse to the Grantee's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless the Grantee commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- D. The dates of decision and appeal in this section may be modified by mutual consent, as applicable, excepting the time to commence an action in a court of competent jurisdiction.

# **EXHIBIT D: SPECIAL TERMS AND CONDITIONS**

### 9. UNION ACTIVITIES

For all agreements, except fixed price contracts of \$50,000 or less, the Grantee acknowledges that applicability of Government Code §§16654 through 16649 to this Grant Agreement and agrees to the following:

- A. No State funds received under the Grant Agreement will be used to assist, promote or deter union organizing.
- B. Grantee will not, for any business conducted under the Grant Agreement, use any State property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the State property is equally available to the general public for holding meetings.
- C. If Grantee incurs costs or makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no reimbursement from State funds has been sought for these costs, and that Grantee shall provide those records to the Attorney General upon request.

### 10. WAIVER

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The parties hereto may waive any of their rights under this Grant Agreement unless such waiver is contrary to law, provided that any such waiver shall be in writing and signed by the party making such waiver.

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# Appendix D: Governing Board Resolution

Before grant funds can be reimbursed, a grantee must <u>either</u> (1) submit a resolution from its Governing Board that delegates authority to the individual authorized to execute the grant agreement <u>or</u> (2) provide sufficient documentation indicating that the prospective grantee has been vested with plenary authority to execute grant agreements (e.g. County Board of Supervisors delegating such authority to an Agency head).

Below is assurance language that, at a minimum, must be included in the resolution submitted to the Board of State and Community Corrections.

WHEREAS the *(insert name of Local Government)* desires to participate in the Indigent Defense Grant Program funded through the State Budget Act of 2020 (Senate Bill 74) and administered by the Board of State and Community Corrections (hereafter referred to as the BSCC).

NOW, THEREFORE, BE IT RESOLVED that the *(insert title of designated official)* be authorized on behalf of the *(insert name of Governing Board)* to submit the grant proposal for this funding and sign the Grant Agreement with the BSCC, including any amendments thereof.

BE IT FURTHER RESOLVED that grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

BE IT FURTHER RESOLVED that the *(insert name of Local Government)* agrees to abide by the terms and conditions of the Grant Agreement as set forth by the BSCC.

Passed, approved, and adopted by the *(insert name of Governing Board)* in a meeting thereof held on *(insert date)* by the following:

Ayes: Notes:	
Absent: Signature:	Date:
Typed Name and Title:	
ATTEST: Signature:	_Date:
Typed Name and Title:	

# Appendix E: Evaluation Guidelines

# Indigent Defense Grant Program Local Evaluation Plan

The Indigent Defense Grant Program for funding period February 15, 2021 through June 30, 2023 requires a Local Evaluation Plan (LEP) to ensure projects funded by the Board of State and Community Corrections (BSCC) can be evaluated to determine their impact and effectiveness. The LEP is a written document that describes how the project will be monitored and evaluated and shows how evaluation results will be used for project improvement and decision making. The LEP should be developed before the project starts by program staff using a collaborative process that involves all relevant project stakeholders. Grantees are encouraged to identify an evaluator who can assist in the collaborative process of developing the LEP and guide the local evaluation throughout the grant cycle. This guideline was developed to assist grantees in creating a LEP that, at a minimum, addresses the information defined below.

Keep in mind the implementation of practices and strategies supported by data are to be considered whenever possible. The BSCC is responsible for verifying that grant money is spent efficiently and on effective projects; collecting data is one mechanism used to determine this. Evaluation results from each project may be used to inform the body of knowledge regarding what works with the target populations. Therefore, it is important to collect appropriate and consistent data. A strong LEP will help pave the way for a strong evaluation. A strong evaluation may be used to provide support for your project and funding.

The BSCC will make public the LEP from each grantee. LEPs may be posted to the BSCC website and/or developed into a statewide summary report to be shared with the Administration, the Legislature, and the public.

All grantees are required to submit a LEP by 5 p.m. on August 30, 2021. LEPs are sent to the Indigent Defense Grant inbox (<u>IndigentDefenseGrant@bscc.ca.gov</u>).

# Cover Page

The cover page provides a descriptive report title, and identifies the grantees, authors, contact information, project time period, and funding source.

# **Project Background**

At a minimum, this section should:

- Provide information essential to understanding the project and the need for the project (history in the community, an explanation of activities and/or services, description of similar efforts in the region, description of how the activities and/or services address the need, etc.).
- For project components that involve participants:

- Define the target population (e.g., gender, age, risk factors, prior involvement with the justice system).
- Define the criteria used to determine participant eligibility of the target population.
- Describe the process for determining which intervention(s) and/or services a participant needs and will receive.
- Provide a description of the project's goals and objectives.

# **Process Evaluation Method and Design**

At a minimum, this section should include:

- The research design for the process evaluation.
- For project components that involve participants, include:
  - The plan to document activities within the project and/or services provided to each participant (e.g., maintaining a database, signup sheets).
  - How participants' progress will be tracked (e.g., start dates, attendance, dropouts, successful completions, progress milestones).
- For project components that do not involve participants, the plan to document activities (e.g., investigations, system/equipment updates).
- How activity progress will be tracked (e.g., start dates, cases initiated/resolved, inspections).
- Process variables and how they will be defined and measured (tools/instruments used to collect the data and frequency of collection).
- How the process data will be collected, and the data source(s) used.
- The project-oversight structure and overall decision-making process for the project.
- How the project components will be monitored, determined effective, and adjusted as necessary.
- The plan for documenting activities performed by staff and contracted providers, if applicable.
- Procedures ensuring that the project will be implemented to fidelity, when applicable.
- How quantitative and qualitative process data will be analyzed. Describe the statistical tools used to analyze quantitative data (e.g., descriptive statistics, chi-square) and methods used for analyzing qualitative data (identifying themes, content analysis, etc.). You do not need to state the analysis type for each evaluation activity separately.

# Outcome Evaluation Method and Design

At a minimum, this section should include:

- The research design for the outcome evaluation (e.g., pre-/post-test, mixed methods, comparison groups).
- A set of evaluation questions. These are the questions that the evaluation will answer. These shall include the project's goals and objectives and may also include more outcome-oriented questions.
- For project components that involve participants:
  - The estimated number of participants expected to receive each type of intervention/service.

- The criteria for determining participant success in the project.
- The estimated number of activities expected to be accomplished.
- The criteria for determining activity completion and/or success in the project.
- Outcome variables and how they will be defined and measured (tools/instruments used to collect the data and frequency of collection).
- How the outcome data will be collected, the timing of data collection, and the data source(s) used.
- How quantitative and qualitative outcome data will be analyzed. Describe the statistical tools used to analyze quantitative data (e.g., descriptive statistics, chi-square) and methods used for analyzing qualitative data (identifying themes, content analysis, etc.). You do not need to state the analysis type for each evaluation activity separately.
- The strategy for determining whether outcomes are due to the project and not some other factor(s) unrelated to the project, including a description of a comparison group, when applicable.
- If multiple types of interventions will be employed, include a description of how the separate effects on outcome variables of each type of the intervention will be determined, if possible.

# Project Logic Model

Provide a visual representation of the project depicting the logical relationships between the project's goal statements, input/resources, activities, outputs, outcomes and impacts of the project.

- Inputs/Resources: "Inputs are various resources available to support the project (e.g., staff, materials, curricula, funding, equipment)."<sup>1</sup> "Include those aspects of the project which are available and dedicated to, or used by, the project/service to operate."<sup>2</sup>
- Activities: Activities are what the project does with the inputs or the services provided in alignment with project goals. If you have access to inputs/resources, then they can be used to accomplish project activities.
- Outputs: If the activities are accomplished, these are the number of services delivered and/or products provided.
- Outcomes: "Outcomes are the immediate, specific, measurable changes"<sup>3</sup> due to the project. If the outputs are achieved, then this is the change we expect to see. Outcomes may be grouped by:
  - Short-Term- Timeframe (grant cycle, months)
  - Medium-Term- Timeframe (grant cycle, months-years)
- Impacts: The ways in which the community, city, and/or county are changed by the achieved outcomes. This includes fundamental intended or unintended changes that occur in organizations, communities, or systems because of project activities beyond the grant cycle. Impacts are societal/economic/civic/environmental focused and may be the same or similar to long-term outcomes (typically occur beyond the grant cycle).<sup>4</sup>

<sup>&</sup>lt;sup>1</sup> Department of Health & Human Services: Family and Youth Services Bureau, 2020.

<sup>&</sup>lt;sup>2</sup> The Pell Institute and Pathways to College Network, 2020.

<sup>&</sup>lt;sup>3</sup> Ibid.

# Appendices (if applicable)

Include relevant supplementary evaluation and project materials in appendices. These may include, but are not limited to, data collection instruments, more detailed descriptions of activities and interventions, training materials, educational materials, operational definitions, additional analyses, and presentations.

# Indigent Defense Grant Program Local Evaluation Report

The Indigent Defense Grant Program for funding period February 15, 2021 through June 30, 2023 requires a Local Evaluation Report (LER) to identify whether the project was successful in achieving its goals and objectives. This LER must be based on the original Local Evaluation Plan (LEP). Any modifications to the LEP must be explained in the LER. This guideline was developed to assist grantees in writing a LER that, at a minimum, addresses the required information defined below.

The LER will document the activities completed with the support of grant funds and the outcomes achieved. BSCC will use this report to verify the grant money was well spent and describe the impacts of the project. Assuming the projects have successful outcomes, other organizations may want to adopt certain project components/intervention(s) demonstrated to be effective. Therefore, the report should include enough information to allow other organizations to replicate your project strategies.

The BSCC will make public the LER from each grantee. LERs may be posted to the BSCC website and/or developed into a statewide summary report to be shared with the Administration, the Legislature, and the public.

All grantees are required to submit a LER to the BSCC no later than 5 p.m. on December 31, 2023.

# Cover Page

The cover page provides a descriptive report title, and identifies the grantees, authors, contact information, project time period, and funding source.

# **Executive Summary**

The Executive Summary summarizes the key components of the report so that readers have a brief overview of the project's efforts and results. It should provide a synopsis of the project explaining: the project purpose; goals and objectives, including the extent to which they were achieved; key findings; project accomplishments; and conclusions.

# Project Background

At a minimum, this section should:

- Provide information essential to understanding the project and the need for the project (history in the community, an explanation of activities and/or services, description of similar efforts in the region, description of how the activities and/or services address the need, etc.).
- For project components that involve participants:
  - Define the target population (e.g., gender, age, risk factors, prior involvement with the justice system).
  - Define the criteria used to determine participant eligibility of the target population.
  - o Describe the process for determining which intervention(s) and/or services

a participant needs and will receive.

• Provide a description of the project's goals and objectives.

# **Process Evaluation Method and Design**

At a minimum, this section should include:

- The research design for the process evaluation.
- For project components that involve participants, include:
  - How activities within the project and/or services provided to each participant were documented (e.g., maintaining a database, signup sheets).
  - How participants' progress was tracked (e.g., start dates, attendance, dropouts, successful completions, progress milestones).
- How components or activities conducted as part of the project were tracked/documented (e.g., investigations, system/equipment updates).
- How activity progress was tracked (e.g., start dates, cases initiated/resolved, inspections).
- Process variables and how they were defined and measured (tools/instruments used to collect the data and frequency of collection).
- How the process data were collected and the data source(s) used.
- The project-oversight structure and overall decision-making process for the project.
- How the project components were monitored, determined effective, and adjusted as necessary.
- The method of documenting activities performed by staff and contracted providers, if applicable.
- Procedures ensuring that the project was implemented to fidelity, when applicable.
- How quantitative and qualitative process data were analyzed. Describe the statistical tools used to analyze quantitative data (e.g., descriptive statistics, chi-square) and your method used for analyzing qualitative data (identifying themes, content analysis, etc.).

# Outcome Evaluation Method and Design

At a minimum, this section should include:

- The research design for the outcome evaluation (e.g., pre-/post-test, mixed methods, comparison groups).
- A set of evaluation questions. These are the questions that the evaluation answered. These shall include the project's goals and objectives and may also include more outcome-oriented questions.
- For project components that involve participants:
  - The number of participants who received each type of intervention/service.
  - The criteria for determining participant success in the project.
- The number of activities accomplished.
- The criteria for determining activity completion and/or success in the project.
- Outcome variables and how they were defined and measured (tools/instruments used to collect the data and frequency of collection).
- How the outcome data were collected, the timing of data collection, and the data source(s) used.
- How quantitative and qualitative outcome data was analyzed. Describe the

statistical tools used to analyze quantitative data (e.g., descriptive statistics, chisquare) and methods used for analyzing qualitative data (identifying themes, content analysis, etc.).

- The strategy for determining whether outcomes were due to the project and not some other factor(s) unrelated to the project, including a description of a comparison group, when applicable.
- If multiple types of interventions were employed, include a description of how the separate effects on outcome variables of each type of the intervention were determined, if possible.

# **Evaluation Results**

This section provides a description of the project outcomes. This section should include:

- The data related to the process evaluation. Describe any changes that were made as a result of the process evaluation findings.
- Total number of participants (unduplicated).
  - Include basic demographic information of your participants (e.g., age, gender, race/ethnicity, risk factors, prior involvement with the justice system).
  - When multiple services are available, include the number of individuals who received each of the services.
- Total number of activities and/or services.
- Progress toward goals:
  - Provide a summary of the degree to which the project's goals and objectives were achieved.
  - Describe factors that affected the progress of project goals. This may include factors which resulted in achieving goals more quickly or impeded your progress. If there were factors that impeded your progress, describe how they were addressed.
- Results of any process analyses and provide a detailed explanation related to the project's performance over the course of the grant.
- Results of any outcome analyses and provide a detailed explanation of findings as it relates to any other additional outcome measures.

# Discussion of Results

At a minimum, this section should:

- Discuss the effectiveness of different strategies implemented in the project.
- Make useful recommendations with specific guidance for what to replicate or do differently.

# A Current Logic Model

Provide a visual representation of the project depicting the logical relationships between the project's goal statements, input/resources, activities, outputs, outcomes and impacts of the project.

• Inputs/Resources: "Inputs are various resources available to support the project (e.g., staff, materials, curricula, funding, equipment)."<sup>5</sup> "Include those aspects of

<sup>&</sup>lt;sup>5</sup> Department of Health & Human Services: Family and Youth Services Bureau, 2020.

the project which are available and dedicated to, or used by, the project/service to operate."<sup>6</sup>

- Activities: Activities are what the project does with the inputs or the services provided in alignment with project goals. If you have access to inputs/resources, then they can be used to accomplish project activities.
- Outputs: If the activities are accomplished, these are the number of services delivered and/or products provided.
- Outcomes: "Outcomes are the immediate, specific, measurable changes"<sup>7</sup> due to the project. If the outputs are achieved, then this is the change we expect to see. Outcomes may be grouped by:
  - Short-Term- Timeframe (grant cycle, months)
  - Medium-Term- Timeframe (grant cycle, months-years)
- Impacts: The ways in which the community, city, and/or county are changed by the achieved outcomes. This includes fundamental intended or unintended changes that occur in organizations, communities, or systems because of project activities beyond the grant cycle. Impacts are societal/economic/civic/environmental focused and may be the same or similar to long-term outcomes (typically occur beyond the grant cycle).<sup>8</sup>

# **Grantee Highlight**

This section should provide a brief, one-page, visually appealing, highlight or success story that provides additional information related to the project's success over the grant cycle. This highlight may be included in a statewide report. You may include optional graphs, charts, or photos<sup>9</sup>. While every effort will be made to include these in a statewide report, inclusion in the report is not guaranteed.

# Appendices

Include relevant supplementary evaluation and project materials in appendices. These may include, but are not limited to, data collection instruments, more detailed descriptions of activities and interventions, training materials, educational materials, operational definitions, additional analyses, and presentations.

<sup>&</sup>lt;sup>6</sup> The Pell Institute and Pathways to College Network, 2020.

<sup>7</sup> Ibid.

<sup>&</sup>lt;sup>8</sup> Ibid.

<sup>&</sup>lt;sup>9</sup> The BSCC will only accept photographs in which all persons depicted are over 18 years of age and have consented to both being photographed and to the use and release of their image. By submitting photographs to the BSCC, the submitter acknowledges that all approvals have been obtained from the subjects in the photograph(s) and that all persons are over 18 years of age. Further, by submitting the photographs, the submitter irrevocably authorizes the BSCC to edit, alter, copy, exhibit, publish or distribute the photographs for purposes of publicizing BSCC grant programs or for any other lawful purpose. All photographs submitted will be considered public records and subject to disclosure pursuant to the California Public Records Act.

# MONTEREY COUNTY OFFICE OF THE PUBLIC DEFENDER

(831) 755-5058 - FAX (831) 755-5873 - PO BOX 539, SALINAS, CALIFORNIA 93901

SUSAN E. CHAPMAN PUBLIC DEFENDER



# Resolution No. County of Monterey, State of California

# **AUTHORIZING RESOLUTION**

# **RESOLUTION** of the Monterey County Board of Supervisors of **the COUNTY OF MONTEREY, STATE OF CALIFORNIA**, hereby consent to adopt and ratify the following resolutions:

WHEREAS the County of Monterey Public Defender desires to participate in the Indigent Defense Grant Program funded through the State Budget Act of 2020 (Senate Bill 74) and administered by the Board of State and Community Corrections (hereafter referred to as the BSCC); and

WHEREAS the Applicant, County of Monterey Public Defender, will receive an Indigent Defense Grant in the amount of \$637,000 to enhance attorney support and digital case management software, for the term February 15, 2021 to June 30, 2023;

NOW, THEREFORE, BE IT RESOLVED that the Public Defender be authorized on behalf of the County of Monterey Board of Supervisors to submit the grant proposal for this funding and sign the Grant Agreement with the BSCC, including any amendments thereof.

BE IT FURTHER RESOLVED that grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

BE IT FURTHER RESOLVED that the County of Monterey Public Defender agrees to abide by the terms and conditions of the Grant Agreement as set forth by the BSCC.

Passed, approved, and adopted by the Board of Supervisors of the County of Monterey in a meeting thereof held this \_\_\_\_\_\_ day of \_\_\_\_\_ 2021 by the following:

Aye : No : Absent :	
	Date:
Typed Name and Title:	
ATTEST: Signature:	_ Date:

Typed Name and Title: Susan E. Chapman, Public Defender





	020 Indigent Defense Grant Program - Project Budget and Budget Narrative	
	Name of Applicant: Monterey County Public Defender	
	Contract Term: February 15, 2021 to June 30, 2023	
	e to receive is provided on the Funding Allocation tab. Please request the <u>full amount</u> of funding next to your c -populate based on the information entered in the budget line items (Salaries and Benefits, Services and Supplies, etc.)	ounty name.
Budget Line Item		Total
1. Salaries and Benefits		\$0.00
2. Services and Supplies		\$50,000.00
3. Professional Services or Public Agency Su	bcontracts	\$372,091.00
4. Non-Governmental Organization (NGO) Su	Jbcontracts	\$0.00
5. Equipment/Fixed Assets		\$20,000.00
6. Project Evaluation		\$0.00
7. Other (Travel, Training, etc.)		\$137,000.00
8. Indirect Costs		\$57,909.00
	TOTAL	\$637,000.00
1a. Salaries and Benefits		
Name and Title	(Show as either % FTE <u>or</u> Hourly Rate) & Benefits	Total
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
	TOTAL	\$0.00

1b. Salaries and Benefits Narrative:

2a. Services and Supplies		
Description of Services or Supplies	Calculation for Expenditure	Tota
Tablet computers	Twenty (20) tablet computers at \$2,000.00 each, sourced from approved county vendors.	\$40,000.00
Peripherals for data storage, cords, cooling, and connectivity.	Computer peripherals sourced from approved county vendors.	\$10,000.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
	TOTAL	\$50,000.00

734

3a. Professional Services		
Description of Professional Service(s)	Calculation for Expenditure	Tota
Development of Auto-text software and text charges		\$80,000.00
Development of transcript database with optical character recognition		\$80,000.00
Development of case management reports to access attorney workloads		\$62,091.00
Scanning and archiving old paper files (approximately 150,000 files)		\$150,000.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
	TOTAL	\$372,091.00

#### 3b. Professional Services Narrative

Software development for autotext program to augment our current digital case management system. Software development for embedding a searchable transcript database within the case management system. Software development for creating field-based attorney workload reports within the case management system. Scanning old paper files and entry into new database.

#### 4a. Non-Governmental Organizations (NGO) Subcontracts

, i		
Description of Subcontract	Calculation for Expenditure	Total
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
	TOTALS	\$0.00

4b. Non-Governmental Organizations (NGO) Subcontracts Narrative

Description of Equipment/Fixed Asset	Calculation for Expense	Tota
Hard drive for storage of digitized files	Two 50+ terabyte hard drives at \$10,000.00 each, sourced from approved county vendors.	\$20,000.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
	TOTALS	\$20,000.00

Digital storage needed to store scans of 30+ years of old paper files, audio, and video evidence.

6a. Project Evaluation		
Calculation for Expense		Tota
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
	TOTAL	\$0.00
	Calculation for Expense	

#### 6b. Project Evaluation Narrative

7a. Other (Travel, Training, etc.)		
Description	Calculation for Expense	Total
Attorney Training	Attorney trial skills training and travel reimbursements.	\$137,000.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
	TOTAL	\$137,000.00

#### 7b. Other (Travel, Training, etc.) Narrative:

35 Attorneys will be eligible for off-site training in trial skills, including travel reimbursement within County guidelines.

8a. Indirect Costs		
Indirect costs may be charged to grant funds by choosing <u>either</u> Option 1) or 2) listed below:		Total
1) Indirect costs will be charged as Grantee's federally approved Negotiated Indirect Cost Rate (NICR): Enter NICR Percentage and Amount:	0.00%	\$0.00
2) Indirect costs will be charged as the Federal De Minimis (10% of Modified Total Direct Cost):		\$57,909.00
	TOTAL	\$57,909.00

#### 8b. Indirect Costs Narrative:

Monterey County Public Defenders Department hs no negotiated indirect cost rate, and therefore is applying the Federal De Minimis rate of 10% for indirect costs.

Before submission, please verify that you have requested the full amount of funding your county is eligible to receive.



# **Monterey County**

**Board Report** 

Legistar File Number: RES 21-021

Introduced: 1/26/2021

Version: 3

Current Status: Criminal Justice - Consent Matter Type: BoS Resolution

Item No.24

March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

Adopt Resolution to:

a. Ratify the submittal of a grant application by the Monterey County Public Defender to the Board of State and Community Corrections (BSCC) for the Indigent Defense Grant Program in the amount of \$637,000.00 for funding of Public Defender's Attorney and Case Management Enhancement project (ACME); and

b. Authorize the Public Defender or Assistant Public Defender to execute the Grant Agreement with BSCC, accepting an Indigent Defense Grant program award for a total grant amount of \$637,000.00, for developing and implementing an ACME project for the grant period February 15, 2021 through June 30, 2023; and

c. Approve the delegation of authority to the Public Defender or Assistant Public Defender to act on the County's behalf to carry out and consummate all transactions contemplated during the grant period.

### ..Report

**RECOMMENDATION:** 

It is recommended that the Board of Supervisors support adopting a resolution to: Adopt Resolution to:

a. Ratify the submittal of a grant application by the Monterey County Public Defender to the Board of State and Community Corrections (BSCC) for the Indigent Defense Grant Program in the amount of \$637,000.00 for funding of Public Defender's Attorney and Case Management Enhancement project (ACME); and

b. Authorize the Public Defender or Assistant Public Defender to execute the Grant Agreement with BSCC, accepting an Indigent Defense Grant program award for a total grant amount of \$637,000.00, for developing and implementing an ACME project for the grant period February 15, 2021 through June 30, 2023; and

c. Approve the delegation of authority to the Public Defender or Assistant Public Defender to act on the County's behalf to carry out and consummate all transactions contemplated during the grant period.

### SUMMARY:

The Public Defender office is applying for an Indigent Defense Grant Program through the Board of State and Community Corrections (BSCC) in the amount of \$637,000.00 to be funded for a period commencing on February 15, 2021 through June 30, 2023. The Board of State and Community Corrections requires formal authorization in order to consider the County's submission. Therefore,

Board approval of the submission is requested.

### DISCUSSION:

The Board of State and Community Corrections (BSCC) is an independent statutory agency that provides leadership and technical assistance to the adult and juvenile criminal justice systems, expertise on Public Safety Realignment issues, a data and information clearinghouse, and provides assistance on a wide range of community corrections issues. The BSCC also administers public safety related to grant funding, including evidence-based practices to fight gangs, and works to address the over representation of youth of color in the juvenile justice system.

The Budget Act of 2020 (Senate Bill 74) established the Indigent Defense Grant Program and appropriated \$10,000,000 in funding. Per the Budget Act, \$9,800,000 is available for grants to nineteen counties with a population of 550,000 residents or less. The Monterey County Public Defender is among one of the nineteen applicable counties who meet eligibility of this grant. The County's allocation is \$637,000.00.

Funds awarded under the Indigent Defense Grant Program will be utilized to address the Public Defender's Attorney and Case Management Enhancement (ACME) project. The ACME project will enhance attorney support for indigent client defense by adding a searchable database to our current paperless digital case management system, streamlining the amount of time the court and client wait for the delivery of paper documents that are stored in offsite locations, and automatically sending text messages to remind indigent clients of the time and place of their upcoming court dates.

The use of BSCC grant funds will result in a more efficient case management system that will benefit the court and our defense of indigent clients. Further outcomes will include attorneys allocating more of their time to ensure positive client outcomes by (1) reducing the time attorneys spend in digitizing and automating duties; and (2) reducing re-calendaring court dates caused by client non-appearances; (3) reducing the time attorneys spend in searching for testimony of recurring witnesses to the point of creating a searchable case database, having information quickly at hand will let attorneys efficiently determine the validity of prior conviction allegations, identify client eligibility for all types of post-conviction relief, and rapidly transfer case materials to subsequent counsel for appeal and writ matters; and (4) improving our method of measuring attorney workloads, thereby redistributing caseloads to achieve workload efficiencies.

In addition to the four goals and related outcomes listed above, the ACME project includes the purchase and installation of hardware and software and software training for attorneys. Our plan includes an assistant Public Defender as project director, a designated financial officer, designated day-to-day project and fiscal contacts, and oversight provided by our Public Defender.

ACME project evaluation (local evaluation plan and logic model for process and outcome designs and methods; data collection tools, methods, and analysis; fidelity monitoring; and local evaluation report) will be conducted, through a Memorandum of Understanding by the County of Monterey Health Department evaluation team that conducted the County's BSCC Strengthening Law Enforcement grant and is currently conducting BSCC's Proposition 64 Public Health and Safety Grant Program

grant.

### OTHER AGENCY INVOLVEMENT:

County Counsel and the Auditor Controller have reviewed this report to legal form and fiscal provisions. The County Administrative Office has reviewed this report and the Budget Committee approved this request on February 24, 2021.

### FINANCING:

There will be no cost to the County General Fund associated with the recommendation at this time. The department plans to incorporate grant related expenditures and offsetting reimbursement revenues into future budget cycles through FY 2021-2023. Once the grant is approved by the BSCC, if the department requires an increase in appropriations and revenues in the current fiscal year, it will return before the Budget Committee and the Board.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This recommendation meets the Board's strategic initiatives by promoting an organization that practices efficient and effective resource management and by creating a safe environment for communities to thrive and grow while reducing violent crimes.

Mark a check to the related Board of Supervisors Strategic Initiatives

- Economic Development X Administration Health & Human Services Infrastructure
- X Public Safety

Prepared by: Becky Avila, Management Analyst, Ext. 3048 Approved by: Susan E. Chapman, Public Defender, Ext. 5806

Attachments: Resolution Indigent Defense Grant Program Application

C/W 2-24-21 2-24-21



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-036

Item No.26

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/10/2021

Version: 1

Current Status: General Government -Consent Matter Type: BoS Agreement

a. Approve an Amendment to Agreement No. A-14563 between the County of Monterey, by and through the Monterey County Treasurer-Tax Collector and RELX INC, to retroactively approve Amendment #2-2021 for the total not to exceed \$13,000 for the period of January 1, 2021 through December 31, 2021; and

b. Authorize the Monterey County Treasurer-Tax Collector to execute the Amendment; and c. Authorize the Monterey County Treasurer-Tax Collector to further amend the Agreement with RELX INC in the future to extend it by one three-year extension or up to three one-year contract extensions where the extending Amendments do not significantly change the scope of work and do not exceed the Agreement amount of \$13,000 per annual extension.

## **RECOMMENDATION:**

a. Approve an Amendment to Agreement No. A-14563 between the County of Monterey, by and through the Monterey County Treasurer-Tax Collector and RELX INC, to retroactively approve Amendment #2-2021 for the total not to exceed \$13,000 for the period of January 1, 2021 through December 31, 2021; and

b. Authorize the Monterey County Treasurer-Tax Collector to execute the Amendment; and

c. Authorize the Monterey County Treasurer-Tax Collector to further amend the Agreement with RELX INC in the future to extend it by one three-year extension or up to three one-year contract extensions where the extending Amendments do not significantly change the scope of work and do not exceed the Agreement amount of \$13,000 per annual extension.

### SUMMARY/DISCUSSION:

The Monterey County Treasurer-Tax Collector (TTC) - Revenue Division completes demographic research through use of RELX INC's LexisNexis Accurint to successfully collect court-ordered debt. On December 8, 2020, the Board of Supervisors approved Amendment #2-2021 to Agreement No. A-14563 between the County of Monterey, by and through the Monterey County Treasurer-Tax Collector and RELX INC, and further authorized the TTC to execute the Amendment. To facilitate approval in a timely manner, an unsigned copy of Amendment #2-2021 was included with the report since the TTC was awaiting return of the vendor's signed copy. The vendor's signature was further delayed by several factors, including limited availability of on-site RELX INC staff who were working remotely due to COVID-19 restrictions and were not authorized to sign documents electronically, the unexpected replacement of the TTC's former RELX INC account representative, and delayed review by RELX INC Legal Counsel. Since the signed document was not received until February 2, 2021, TTC staff was advised to return to the Board to request new approval and authorization for

the TTC to execute the now "retroactive" amendment.

### OTHER AGENCY INVOLVEMENT:

County Counsel reviewed this report and recommended that the TTC seek Board approval for the retroactive amendment and other previously approved actions.

### FINANCING:

Current year Agreement costs are included in the Treasurer-Tax Collector's FY 2020-21 approved budget. FY 2021-22 costs have been incorporated in the department's pending budget request. As an essential part of debt collections on behalf of the Superior Court, related costs are covered by offsetting funding through the Comprehensive Collection Program (CCP) per PC 1463.007. Approval of recommended actions has no impact on the County's General Fund.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The request to authorize the retroactive agreement supports the County's Administration policy because it allows the department to operate in an efficient and cost-effective manner by having reliable access to debtor research and location services.

Mark a check to the related board of Supervisors Strategic Initiatives  $\underline{X}$  Administration

Prepared by: Sean Gomes, DISM II, x5436

Approved by: Mary A. Zeeb, Treasurer-Tax Collector, x5474

Attachments: Amendment #2-2021 to Agreement No. A-14563



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-036

168 W. Alisal St., 1st Floor Salinas, CA 93901

Item No.26

Board of Supervisors Chambers

March 02, 2021

Introduced: 2/10/2021

Version: 1

Current Status: General Government -Consent Matter Type: BoS Agreement

a. Approve an Amendment to Agreement No. A-14563 between the County of Monterey, by and through the Monterey County Treasurer-Tax Collector and RELX INC, to retroactively approve Amendment #2-2021 for the total not to exceed \$13,000 for the period of January 1, 2021 through December 31, 2021; and

b. Authorize the Monterey County Treasurer-Tax Collector to execute the Amendment; and c. Authorize the Monterey County Treasurer-Tax Collector to further amend the Agreement with RELX INC in the future to extend it by one three-year extension or up to three one-year contract extensions where the extending Amendments do not significantly change the scope of work and do not exceed the Agreement amount of \$13,000 per annual extension.

# **RECOMMENDATION:**

a. Approve an Amendment to Agreement No. A-14563 between the County of Monterey, by and through the Monterey County Treasurer-Tax Collector and RELX INC, to retroactively approve Amendment #2-2021 for the total not to exceed \$13,000 for the period of January 1, 2021 through December 31, 2021; and

b. Authorize the Monterey County Treasurer-Tax Collector to execute the Amendment; and

c. Authorize the Monterey County Treasurer-Tax Collector to further amend the Agreement with RELX INC in the future to extend it by one three-year extension or up to three one-year contract extensions where the extending Amendments do not significantly change the scope of work and do not exceed the Agreement amount of \$13,000 per annual extension.

## SUMMARY/DISCUSSION:

The Monterey County Treasurer-Tax Collector (TTC) - Revenue Division completes demographic research through use of RELX INC's LexisNexis Accurint to successfully collect court-ordered debt. On December 8, 2020, the Board of Supervisors approved Amendment #2-2021 to Agreement No. A-14563 between the County of Monterey, by and through the Monterey County Treasurer-Tax Collector and RELX INC, and further authorized the TTC to execute the Amendment. To facilitate approval in a timely manner, an unsigned copy of Amendment #2-2021 was included with the report since the TTC was awaiting return of the vendor's signed copy. The vendor's signature was further delayed by several factors, including limited availability of on-site RELX INC staff who were working remotely due to COVID-19 restrictions and were not authorized to sign documents electronically, the unexpected replacement of the TTC's former RELX INC account representative, and delayed review by RELX INC Legal Counsel. Since the signed document was not received until February 2, 2021, TTC staff was advised to return to the Board to request new approval and authorization for

Legistar File Number: A 21-036

the TTC to execute the now "retroactive" amendment.

### **OTHER AGENCY INVOLVEMENT:**

County Counsel reviewed this report and recommended that the TTC seek Board approval for the retroactive amendment and other previously approved actions.

### FINANCING:

Current year Agreement costs are included in the Treasurer-Tax Collector's FY 2020-21 approved budget. FY 2021-22 costs have been incorporated in the department's pending budget request. As an essential part of debt collections on behalf of the Superior Court, related costs are covered by offsetting funding through the Comprehensive Collection Program (CCP) per PC 1463.007. Approval of recommended actions has no impact on the County's General Fund.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The request to authorize the retroactive agreement supports the County's Administration policy because it allows the department to operate in an efficient and cost-effective manner by having reliable access to debtor research and location services.

Mark a check to the related board of Supervisors Strategic Initiatives X Administration

Prepared by:

Jake Stroud Sean Gomes, DISM II, x5436

DocuSigned by:

DocuSigned by:

Approved by:

Mary *l. Euch* <sup>16066971D0D0492</sup> Mary A. Zeeb, Treasurer-Tax Collector, x5474

Attachments: Amendment #2-2021 to Agreement No. A-14563



# AMENDMENT #2-2021 TO AGREEMENT BY AND BETWEEN COUNTY OF MONTEREY & RELX INC Agreement No. A-14563

**THIS AMENDMENT, #2-2021,** is made to the Agreement No. A-14563 for the provision of Accurint for Government Transactional debtor location and research services to be performed under the terms of the State of California negotiated Standard Agreement No. 5-17-70-12, by and between **RELX INC**, hereinafter "CONTRACTOR", and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County".

**WHEREAS**, the County and CONTRACTOR wish to amend the AGREEMENT to reflect the County's exercise of the option to extend for one (1) additional year.

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

- 1. The term of this Agreement, from December 1, 2019 to December 31, 2020, is amended to an extended for an additional one year period for a new Agreement term of December 1, 2019 to December 31, 2021, unless sooner terminated pursuant to the terms of this Agreement.
- 2. For the additional one-year period added by this Amendment No. 2-2021, January 1, 2021 to December 31, 2021, the contractual fiscal obligation of the County for this additional year shall not exceed \$13,000.
- 3. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT and shall continue in full force and effect as set forth in the AGREEMENT.
- 4. A copy of this AMENDMENT shall be attached to the original AGREEMENT dated November 19, 2019.

This space left blank intentionally

RELX INC Amendment #2-2021 to Agreement No. A-14563 Revenue Division Services Page 1 of 2 IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

MONTEREY COUNTY	CONTRACTOR
	By: Teresa Harmon Digitally signed by Teresa Harmon Date: 2021.02.01 09:36:44 -05'00'
Contracts/Purchasing Officer	Signature of Chair, President, or Vice-President
Dated:	Teresa Harmon, Vice President
	Printed Name and Title
Approved as to Fiscal Provisions: Gary Gibony	Dated: February 1, 2021
Deputy Auditor/Controller	Roslan, Joshua (LNG- By: DAY) Date: 2021.02.01 10:04:36 -05'00'
Dated: 2/17/2021   3:36 PM PST	(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*
Approved as to Liability Provisions:	Joshua Roslan, Pricing Analyst Printed Name and Title
	Printed Name and Title
Risk Management	Dated: February 2, 2021
Dated:	
Approved as to Form:	
Brian Briggs	
Deputy County Counsel	
Dated: 2/17/2021   3:25 PM PST	

\*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.

RELX INC Amendment #2-2021 to Agreement No. A-14563 Revenue Division Services Page 2 of 2



# **Monterey County**

# **Board Report**

# Legistar File Number: RES 21-039

Item No.27

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/13/2021

Version: 1

Current Status: General Government -Consent Matter Type: BoS Resolution

Adopt a resolution to revise and approve amendments to the Local Agency Formation Commission of Monterey County's Conflict of Interest Code.

### **RECOMMENDATION:**

It is recommended that the Board of Supervisors, as the code reviewing body under the Political Reform Act, revise and approve amendments to the Conflict of Interest Code of the Local Agency Formation Commission of Monterey County.

### SUMMARY:

Following the biennial review of its Conflict of Interest Code as required by Government Code section 87306.5, the Local Agency Formation Commission of Monterey County (LAFCO) amended its Conflict of Interest Code to update its designated positions. A copy of its amended Conflict of Interest Code is attached hereto.

### DISCUSSION:

Amendments to local agency Conflict of Interest Codes are authorized by section 87306 of the Government Code whenever changes are required by changed circumstances, by creation or deletion of designated positions, or by changes in the duties of designated positions.

Under Government Code sections 82011 and 87303, the Board of Supervisors is the code reviewing body. It may approve the Code as submitted; revise the proposed code and approve it as revised; or return the proposed Code to the agency for revision and resubmission.

Staff recommends that the Board adopt LAFCO's amended Conflict of Interest Code.

## OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed LAFCO's amended Conflict of Interest Code. The amended Code is lawful under the Political Reform Act of 1974.

### FINANCING:

There is no fiscal impact upon the County of Monterey resulting from the Board's revision and approval of the proposed Conflict of Interest Code.

## BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

Revision and approval of the proposed Conflict of Interest Code fulfills the Board's statutorily designated role as the code reviewing body pursuant to the Political Reform Act.

Economic Development X Administration Health & Human Services Infrastructure Public Safety

Prepared by: Iracema Lopez, Management Analyst, X5066 Approved by: Valerie Ralph, Clerk of the Board, X5842

Attachments: LAFCO's amended Conflict of Interest Code (red lined) LAFCO's Conflict of Interest Code (clean) LAFCO's Resolution No. 20-14, adopted on December 7, 2020, reflecting adoption of its revised Conflict of Interest Code Resolution of the Board of Supervisors



# **Monterey County**

**Board Report** 

# Item No.25

March 02, 2021

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

Legistar File Number: RES 21-039

Introduced: 2/13/2021

Version: 1

Current Status: General Government -Consent Matter Type: BoS Resolution

Adopt a resolution to revise and approve amendments to the Local Agency Formation Commission of Monterey County's Conflict of Interest Code.

### **RECOMMENDATION:**

It is recommended that the Board of Supervisors, as the code reviewing body under the Political Reform Act, revise and approve amendments to the Conflict of Interest Code of the Local Agency Formation Commission of Monterey County.

### SUMMARY:

Following the biennial review of its Conflict of Interest Code as required by Government Code section 87306.5, the Local Agency Formation Commission of Monterey County (LAFCO) amended its Conflict of Interest Code to update its designated positions. A copy of its amended Conflict of Interest Code is attached hereto.

### DISCUSSION:

Amendments to local agency Conflict of Interest Codes are authorized by section 87306 of the Government Code whenever changes are required by changed circumstances, by creation or deletion of designated positions, or by changes in the duties of designated positions.

Under Government Code sections 82011 and 87303, the Board of Supervisors is the code reviewing body. It may approve the Code as submitted; revise the proposed code and approve it as revised; or return the proposed Code to the agency for revision and resubmission.

Staff recommends that the Board adopt LAFCO's amended Conflict of Interest Code.

### **OTHER AGENCY INVOLVEMENT:**

County Counsel has reviewed LAFCO's amended Conflict of Interest Code. The amended Code is lawful under the Political Reform Act of 1974.

### FINANCING:

There is no fiscal impact upon the County of Monterey resulting from the Board's revision and approval of the proposed Conflict of Interest Code.

### BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

Revision and approval of the proposed Conflict of Interest Code fulfills the Board's statutorily designated role as the code reviewing body pursuant to the Political Reform Act.

- Economic Development
- $\underline{\mathbf{X}}$  Administration
- Health & Human Services
- \_\_Infrastructure
- \_\_Public Safety

Prepared by: Iracema Lopez, Management Analyst, X5066 Approved by: Valerie Ralph, Clerk of the Board, X5842

Attachments:

LAFCO's amended Conflict of Interest Code (red lined) LAFCO's Conflict of Interest Code (clean) LAFCO's Resolution No. 20-14, adopted on December 7, 2020, reflecting adoption of its revised

Conflict of Interest Code

Resolution of the Board of Supervisors

# LAFCO of Monterey County

# LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

# CONFLICT OF INTEREST CODE OF THE

# LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

# December 7, 2020 Proposed Update - Tracked Changes Version

The Political Reform Act of 1974, Government Code sections 81000; *et seq.*, requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. \_The Fair Political Practices Commission has adopted a regulation, <del>2 Cal. Code of Regs. Ss</del>ection 18730 <u>of Title 2 of the California Code of Regulations</u>, which contains the terms of a standard-model Conflict of Interest Code, which that can be incorporated by reference <u>in an agency's code.</u>; and which may be amended by \_After public notice and hearing, the Fair Political Practices Commission <u>may amend the standard code</u> to conform to amendments <u>inof</u> the Political Reform Act-<u>after public notice and hearings</u>. Therefore, the terms of <u>2 Cal. Code of Regs.</u> section 18730 <u>of Title 2 of the California Code of Regulations</u> and any amendments to it duly adopted by the Fair Political Practices Commission, <u>along together</u> with the attached Appendicesx <u>in which officials and employees are designatinged positions</u> and <u>establishing</u> disclosure categories <u>are set forth</u> are hereby incorporated by reference and <u>together</u> constitute the Conflict of Interest Code of the Local Agency Formation Commission of Monterey County <u>(hereinafter "LAFCO")</u>.

Pursuant to Government Code section 81008 and 2 Cal. Code of Regs. Section 18730(b)(4), all designated employees Individuals holding designated positions shall file their statements of economic interests with their agency. Upon receipt of the statement of the LAFCO Commissioners, the agency shall make and retain a-copiesy and forward the original of the statements to the code reviewing body, the Monterey County Board of Supervisors, by providing the documents to the office of the Monterey County Clerk to the Board. Statements for all other designated positions employees shall be retained by the agency. which shall make the statements available for public inspection and reproduction.

 APPENDIXAttachments:
 Appendix A: Designated Positions

 \_\_\_\_\_\_Appendix B: Disclosure Categories

Amended: 1979 and 1994

# EXHIBITAPPENDIX A: DESIGNATED POSITIONS

List of Designated Positions<sup>1</sup> Categories Assigned Disclosure

LAFCO Commission Members and Alternate Members	12
LAFCO Executive Officer	1
LAFCO Principal Analyst	1
LAFCO Senior Analyst	1
Consultants <sup>3</sup>	1

<sup>1</sup> Public officials who manage public investments are not covered by the Conflict of Interest Code because they must file a statement of economic interest pursuant to Government Code section 87200. Therefore, those positions are listed under Designated Positions for information purposes only.

<sup>2</sup> Designated <u>positions</u>employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated positionemployee as if it were an original. See Geovernment Ceode section 81004.

<sup>3</sup> For purposes of this Code, a "consultant" <u>has the same meaning as set forth in section 18701 (a)(2) of</u> <u>Title 2 of California Code of Regulations as follows:</u>

"Consultant" means an individual who, pursuant to a contract with a state or local government agency: (A) Makes a governmental decision whether to:

<u>1.</u> Approved a rate, rule, or regulation;

- 2. Adopt or enforce a law;
- 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
- 4. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval;
- 5. Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
- 6. Grant agency approval to a plan, design, report, study, or similar item;
- 7. Adopt, or grant agency approval of policies, standards, or guidelines for the agency, or for any subdivision thereof, or
- (A)(B) Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.is any natural person who provides, under contract, information, advice, recommendation, or counsel to the Local Formation Commission of Monterey County, provided however, that "consultant" shall not include a person who: (a) Conducts research and arrives at conclusions with respect to his or her rendition of information, control and direction of the agency or of any agency official, other than normal contract monitoring; and (b) Possesses no

# EXHIBITAPPENDIX B: DISCLOSURE CATEGORIES

# **General Provisions**

When a<u>n individual-member, officer, or employee</u> who holds a designated position is required to disclose investments and sources of income, he or she shall disclose investments in business entities and sources of income which do business in the jurisdiction, plan to do business in the jurisdiction, or have done business in the jurisdiction within the past two years. In addition to other activities, a business entity is doing business within the jurisdiction if it owns real property within the jurisdiction.

When a<u>n individual designated member, officer, or employee</u> who holds a designated position is required to disclose sources of income, he or she shall <u>includedisclose</u> gifts received from donors located inside as well as outside the jurisdiction.

When a<u>n individual designated member, officer, or employee</u> who holds a designated position is required to disclose interests in real property, he or she shall disclose the type of real property described below, if it is located <u>within the jurisdiction in whole or in part within</u>, or not more than two miles outside <del>of</del> the boundaries of the jurisdiction, or within two miles of any land owned or used by <u>LAFCOLAFCO of Monterey County</u>.

When a<u>n individual designated member, officer, or employee</u> who holds a designated position is required to disclose <u>business position</u>, <u>he or she shall disclose</u> positions in business entities that do business in the jurisdiction, plan to do business in the jurisdiction, or have done business in the jurisdiction within the past two years.

For purposes of this Conflict of Interest Code, the jurisdiction of the Local Agency Formation Commission of Monterey CountyLAFCO is the County of Monterey.

authority with respect to any agency decision beyond the rendition of information, advice, recommendation, or counsel.

Consultants to the Local Agency Formation Commission of Monterey CountyLAFCO shall be subject to disclosure under Category 1, subject to the following limitation:

The LAFCO Executive Officer may determine in writing that a particular consultant, although a "Designated <u>PositionEmployee</u>," is hired to perform a range of duties that is limited in scope and thus is not required to <del>fully</del> comply with the disclosure requirements of Category 1. In such cases, the LAFCO Executive Officer may designate a different disclosure requirement. Such <u>determinationdesignation</u> must be made in writing and shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the consultant's disclosure requirements. <u>Such determination</u> by <u>T</u>the LAFCO Executive Officer is a public record and shall be retained for public inspection in the same manner and location as LAFCO's of <u>Monterey County's</u> Conflict of Interest Code.'s designation must be filed, in advance of disclosure by the consultant, with the agency's conflict of interest code and also filed with the code reviewing body and must be delivered to the consultant along with a copy of the conflict of interest code and the manual and forms for disclosure (FPPC Form 730).

# LAFCO of Monterey County - Administrative Policies and Procedures

# Disclosure Category 1:

A <u>designated position in this category mustmember</u>, officer, or employee holding a position assigned to Disclosure Category 1 shall, in the manner described above, report :

A<u>a</u>ll investments, and business positions, in business entities <u>interests in real property</u>, and sources of income, <u>including gifts</u>, <u>loans</u>, and <u>travel payments</u>. in the jurisdiction;

Interests in real property in the jurisdiction;

His or her status as director, officer, partner, trustee, employee, or holder of a management position in any business entity in the jurisdiction.

# Category 2

A designated position in this category must report all investments, business positions, and sources of income, including gifts, loans, and travel payments.

# Category 3

A designated position in this category must report all interests in real property.

# Category 4

A designated position in this category must report all investments, business positions and income, including gifts, loans, and travel payments, from sources that are subject to the regulatory, permit or licensing authority of, or have an application for a license or permit pending before LAFCO.

# Category 5

A designated position in this category must report all investments, business positions and income, including gifts, loans, and travel payments, from sources which are of the type to supply materials, products, supplies, commodities, services, machinery, vehicles, or equipment utilized by LAFCO.

# Category 6

A designated position in this category must report all investments, business positions and income, including gifts, loans, and travel payments, from sources which are of the type to receive grants or other monies from or through LAFCO.

Exhibit A

# LAFCO of Monterey County

# LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

# CONFLICT OF INTEREST CODE OF THE

# LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

# December 7, 2020 Proposed Update – Clean Version

The Political Reform Act of 1974, Government Code section 81000 *et seq.*, requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, section 18730 of Title 2 of the California Code of Regulations, which contains the terms of a standard Conflict of Interest Code that can be incorporated by reference in an agency's code. After public notice and hearing, the Fair Political Practices Commission may amend the standard code to conform to amendments of the Political Reform Act. Therefore, the terms of section 18730 of Title 2 of the California Code of Regulations and any amendments to it duly adopted by the Fair Political Practices Commission together with the attached Appendices designating positions and establishing disclosure categories are hereby incorporated by reference and together constitute the Conflict of Interest Code of the Local Agency Formation Commission of Monterey County (hereinafter "LAFCO").

Individuals holding designated positions shall file their statement of economic interests with their agency. Upon receipt of the statement of the LAFCO Commissioners, the agency shall make and retain copies and forward the original of the statements to the code reviewing body, the Monterey County Board of Supervisors, by providing the documents to the office of the Monterey County Clerk to the Board. Statements for all other designated positions shall be retained by the agency.

Attachments: Appendix A: Designated Positions Appendix B: Disclosure Categories

Amended: 1979 and 1994

# APPENDIX A: DESIGNATED POSITIONS

### Designated Positions<sup>1</sup>

### Assigned Disclosure Categories

LAFCO Commission Members and Alternate Members 1 <sup>2</sup>	
LAFCO Executive Officer 1	
LAFCO Principal Analyst 1	
LAFCO Senior Analyst 1	
Consultants <sup>3</sup> 1	

## APPENDIX B: DISCLOSURE CATEGORIES

<sup>3</sup> For purposes of this Code, "consultant" has the same meaning as set forth in section 18701 (a)(2) of Title 2 of California Code of Regulations as follows:

"Consultant" means an individual who, pursuant to a contract with a state or local government agency: (A) Makes a governmental decision whether to:

- 1. Approved a rate, rule, or regulation;
- 2. Adopt or enforce a law;
- 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
- 4. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval;
- 5. Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
- 6. Grant agency approval to a plan, design, report, study, or similar item;
- 7. Adopt, or grant agency approval of policies, standards, or guidelines for the agency, or for any subdivision thereof, or
- (B) Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.

Consultants to LAFCO shall be subject to disclosure under Category 1, subject to the following limitation:

The LAFCO Executive Officer may determine in writing that a particular consultant, although a "Designated Position," is hired to perform a range of duties that is limited in scope and thus is not required to comply with the disclosure requirements of Category I. In such cases, the LAFCO Executive Officer may designate a different disclosure requirement. Such determination must be made in writing and shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the consultant's disclosure requirements. Such determination by the LAFCO Executive Officer is a public record and shall be retained for public inspection in the same manner and location as LAFCO's Conflict of Interest Code.

<sup>&</sup>lt;sup>1</sup> Public officials who manage public investments are not covered by the Conflict of Interest Code because they must file a statement of economic interest pursuant to Government Code section 87200. Therefore, those positions are listed under Designated Positions for information purposes only.

<sup>&</sup>lt;sup>2</sup> Designated positions who are required to file statements of economic interests under any other agency's conflict of interest code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated position as if it were an original. See Government Code section 81004.

# **General Provisions**

When an individual who holds a designated position is required to disclose investments and sources of income, he or she shall disclose investments in business entities and sources of income which do business in the jurisdiction, plan to do business in the jurisdiction, or have done business in the jurisdiction within the past two years. In addition to other activities, a business entity is doing business within the jurisdiction if it owns real property within the jurisdiction.

When an individual who holds a designated position is required to disclose sources of income, he or she shall include gifts received from donors located inside as well as outside the jurisdiction.

When an individual who holds a designated position is required to disclose interests in real property, he or she shall disclose the type of real property described below if it is located within the jurisdiction, or not more than two miles outside the boundaries of the jurisdiction, or within two miles of any land owned or used by LAFCO.

When an individual who holds a designated position is required to disclose business position, he or she shall disclose positions in business entities that do business in the jurisdiction, plan to do business in the jurisdiction, or have done business in the jurisdiction within the past two years.

For purposes of this Conflict of Interest Code, the jurisdiction of LAFCO is the County of Monterey.

# Category 1

A designated position in this category must report all investments, business positions, interests in real property, and sources of income, including gifts, loans, and travel payments.

# Category 2

A designated position in this category must report all investments, business positions, and sources of income, including gifts, loans, and travel payments.

# Category 3

A designated position in this category must report all interests in real property.

# Category 4

A designated position in this category must report all investments, business positions and income, including gifts, loans, and travel payments, from sources that are subject to the regulatory, permit or licensing authority of, or have an application for a license or permit pending before LAFCO.

# Category 5

A designated position in this category must report all investments, business positions and income, including gifts, loans, and travel payments, from sources which are of the type to supply materials, products, supplies, commodities, services, machinery, vehicles, or equipment utilized by LAFCO.

# Category 6

A designated position in this category must report all investments, business positions and income, including gifts, loans, and travel payments, from sources which are of the type to receive grants or other monies from or through LAFCO.

#### LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

#### **RESOLUTION NO. 20-14**

#### ADOPTING AN UPDATE TO THE LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY CONFLICT OF INTEREST CODE

WHEREAS, the Local Agency Formation Commission Conflict of Interest Code was last updated on March 22, 1994; and

WHEREAS, the Political Reform Act requires every local government agency to review its Conflict of Interest Code biennially, and, if amendments are necessary, the amended code must be forwarded to the Monterey County Board of Supervisors for approval; and

WHEREAS, the Local Agency Formation Commission has reviewed its Conflict of Interest Code and concluded that the list of Designated Positions and other sections should be updated as provided in Exhibit A; and

WHEREAS, the Local Agency Formation Commission has considered the proposed update to the Conflict of Interest Code at a public meeting on December 7, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation Commission of Monterey County finds that the proposed updates (Exhibit A) are not subject to environmental analysis because they constitute organizational and administrative activities of government that will not result in direct or indirect physical changes in the environment and are therefore not a "project" for purposes of CEQA.

BE IT FURTHER RESOLVED by the Local Agency Formation Commission of Monterey County that the Local Agency Formation Commission of Monterey County Conflict of Interest Code shall be updated as provided in Exhibit A and forwarded to the Monterey County Board of Supervisors.

**UPON MOTION** of Commissioner Gourley, seconded by Commissioner Poitras, the foregoing resolution is adopted this 7<sup>th</sup> day of December 2020 by the following vote:

AYES: Commissioners Alejo, Cromeenes, Gourley, Leffel, Lopez, Oglesby, Poitras. NOES: None. ABSENT: None. ALTERNATES: Commissioners, Parker, Orozco, Snodgrass, Stephens (non-voting) ABSTAIN: None.

lan N. Vyle

By: Ian Oglesby, Chair

Local Agency Formation Commission of Monterey County

ATTEST:

I certify that the within instrument is a true and complete copy of the original resolution of said Commission on file within this office. Witness my hand this 7<sup>th</sup> day of December 2020.

Ickenna By:

Kate McKenna, AICP, Executive Officer

### The Before the Board of Supervisors in and for the County of Monterey, State of California

### **Resolution No.**

Resolution revising and approving the Local	)
Agency Formation Commission's Amended	)
Conflict of Interest Code	)

WHEREAS, under Government Code sections 87300 and 87301, the Local Agency Formation Commission (LAFCO) has adopted a Conflict of Interest Code;

WHEREAS, under Government Code section 87306, LAFCO amended its Conflict of Interest Code to update its designated positions;

WHEREAS, under Sections 82011 and 87303 of the Government Code, LAFCO submitted its amended Code to the Monterey County Board of Supervisors, the code reviewing body under the Political Reform Act, for approval;

WHEREAS, LAFCO's amended Conflict of Interest Code is attached hereto as Attachment A and incorporated herein by reference;

WHEREAS, under Government Code section 87303, the Board of Supervisors as code reviewing body may approve the Code as submitted, may revise the proposed Code and approve it as revised, or may return the proposed Code to the agency for revision and resubmission; and

WHEREAS, the amended Code is lawful under the Political Reform Act of 1974;

NOW THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors does hereby revise the proposed code and does hereby approve the Amended Conflict of Interest Code of LAFCO attached hereto as Attachments A and B, and directs the Clerk of the Board of Supervisors to notify LAFCO of its approval.

PASSED AND ADOPTED upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, carried this \_\_\_\_\_ day of \_\_\_\_\_, by the following vote, to wit:

AYES: NOES: ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_\_.

Dated: File Number: Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California By \_\_\_\_\_

Deputy



# **Monterey County**

# **Board Report**

### Legistar File Number: RES 21-040

Item No.28

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/13/2021

Version: 1

Current Status: General Government -Consent Matter Type: BoS Resolution

Adopt a resolution to revise and approve amendments to Monterey Peninsula Community College District's Conflict of Interest Code.

#### **RECOMMENDATION:**

It is recommended that the Board of Supervisors, as the code reviewing body under the Political Reform Act, revise and approve amendments to the Conflict of Interest Code of Monterey Peninsula Community College District.

#### SUMMARY:

Following the biennial review of its Conflict of Interest Code as required by Government Code section 87306.5, Monterey Peninsula Community College District (MPC) amended its Conflict of Interest Code to add new positions, revise titles of existing positions, delete titles of positions that have been abolished, and replace gender-specific language with gender-neutral language. A copy of MPC's amended Conflict of Interest Code is attached hereto.

#### DISCUSSION:

Amendments to local agency Conflict of Interest Codes are authorized by section 87306 of the Government Code whenever changes are required by changed circumstances, by creation or deletion of designated positions, or by changes in the duties of designated positions.

Under Government Code sections 82011 and 87303, the Board of Supervisors is the code reviewing body. It may approve the Code as submitted; revise the proposed code and approve it as revised; or return the proposed Code to the agency for revision and resubmission.

Staff recommends that the Board adopt MPC's amended Conflict of Interest Code.

### OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed MPC's amended Conflict of Interest Code. The amended Code is lawful under the Political Reform Act of 1974.

#### FINANCING:

There is no fiscal impact upon the County of Monterey resulting from the Board's revision and approval of the proposed Conflict of Interest Code.

#### BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

Revision and approval of the proposed Conflict of Interest Code fulfills the Board's statutorily designated role as the code reviewing body pursuant to the Political Reform Act.

Economic Development
X Administration
Health & Human Services
Infrastructure
Public Safety

Prepared by: Iracema Lopez, Management Analyst I, X5066 Approved by: Valerie Ralph, Clerk of the Board, X5842

Attachments:

MPC's amended Conflict of Interest Code (red lined)

MPC's amended Conflict of Interest Code (clean)

MPC's Resolution No. 20:52, adopted on December 16, 2020, reflecting adoption of MPC's

amended Conflict of Interest Code

Resolution of the Board of Supervisors

# ..Title

Adopt a resolution to revise and approve amendments to Monterey Peninsula Community College District's Conflict of Interest Code.

### ..Report

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### **DISCUSSION**:

Amendments to local agency Conflict of Interest Codes are authorized by section 87306 of the Government Code whenever changes are required by changed circumstances, by creation or deletion of designated positions, or by changes in the duties of designated positions.

Under Government Code sections 82011 and 87303, the Board of Supervisors is the code reviewing body. It may approve the Code as submitted; revise the proposed code and approve it as revised; or return the proposed Code to the agency for revision and resubmission.

Staff recommends that the Board adopt MPC's amended Conflict of Interest Code.

## OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed MPC's amended Conflict of Interest Code. The amended Code is lawful under the Political Reform Act of 1974.

### FINANCING:

There is no fiscal impact upon the County of Monterey resulting from the Board's revision and approval of the proposed Conflict of Interest Code.

### BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

Revision and approval of the proposed Conflict of Interest Code fulfills the Board's statutorily designated role as the code reviewing body pursuant to the Political Reform Act.

Economic Development X Administration Health & Human Services Infrastructure Public Sofety Prepared by: Joel Pablo, Senior Secretary, X6642 Approved by: Valerie Ralph, Clerk of the Board, X5842

Attachments: MPC's amended Conflict of Interest Code (red lined) MPC's amended Conflict of Interest Code (clean) MPC's Resolution No. 20:52, adopted on December 16, 2020, reflecting adoption of MPC's amended Conflict of Interest Code Resolution of the Board of Supervisors



#### Chapter 2 Board of Trustees

2712

### AP 2712 Conflict of Interest Code

**NOTE:** This procedure is essentially verbatim from Title 2 Sections 18730 et seq. The numbering system reflects the system used in the code and includes gaps in numbering. The first paragraph states that if an agency adopts the verbatim text of that regulation, the agency will be presumed to have adopted a code that complies with the Political Reform Act.

Pursuant to Section 18730 of Title 2 of the California Code of Regulations, incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in **Section 13** below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section 87300 or the amendment of a conflict of interest code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code Sections 81000 et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest conflicts of interest.

#### **Section 1. Definitions**

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regulations Sections 18100 et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

### Section 2. Designated Employees

The persons holding positions listed in **Section 13** are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

### Section 3. Disclosure Categories

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same



capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economics interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code Sections 87200 et seq. In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

- (A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;
- (B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code Section 87200; and
- (C) The filing officer is the same for both agencies.<sup>1</sup> Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in Section 13 specify which kinds of economic interests are reportable. Such a-designated employees shall disclose in his/her-their statements of economic interests those economic interests he/she has-they have which are of the kind described in the disclosure categories to which he/she is-they are assigned in Section 13. It has been determined that the economic interests set forth in a-designated employee's disclosure categories are the kinds of economic interests which he/she they are assigned and the disclosure categories are the kinds of economic interests which he/she they foreseeably can affect materially through the conduct of his/hertheir office.

### Section 4. Statements of Economic Interests: Place of Filing

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.<sup>2</sup>

<sup>&</sup>lt;sup>1</sup> Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

<sup>&</sup>lt;sup>2</sup> See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.



#### Section 5. Statements of Economic Interests: Time of Filing

- (A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.
- (B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.
- (C) Annual Statements. All designated employees shall file statements no later than April 1.
- (D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

#### Section 5.5. Statements for Persons Who Resign Prior to Assuming Office

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he/she/they did not make or participate in the making of, or use his/her/their position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his/her/their appointment. Such persons shall not file either an assuming or leaving office statement.

- (A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:
  - 1. File a written resignation with the appointing power; and
  - 2. File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he/she/they did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

#### Section 6. Contents of and Period Covered by Statements of Economic Interests

- (A) Contents of Initial Statements. Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.
- (B) Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date



of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

- (C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office, whichever is later.
- (D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

#### Section 7. Manner of Reporting

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

- (A) Investments and Real Property Disclosure. When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</sup> the statement shall contain the following:
  - 1. A statement of the nature of the investment or interest;
  - 2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
  - 3. The address or other precise location of the real property;
  - A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

<sup>&</sup>lt;sup>3</sup> For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>&</sup>lt;sup>4</sup> Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse, and dependent children own, in the aggregate, a direct, indirect, or beneficial interest of 10 percent or greater.



- (B) Personal Income Disclosure. When personal income is required to be reported,<sup>5</sup> the statement shall contain:
  - 1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
  - A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
  - 3. A description of the consideration, if any, for which the income was received;
  - 4. In the case of a gift, the name, address, and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
  - 5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.
- (C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,<sup>6</sup> the statement shall contain:
  - 1. The name, address, and a general description of the business activity of the business entity;
  - 2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).
- (D) Business Position Disclosure. When business positions are required to be reported, -a designated employees shall list the name and address of each business entity in which he/she isthey are a directors, officers, partners, trustees, employees, or in which he/she they holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position(s) with the business entity.

<sup>&</sup>lt;sup>5</sup> A designated employee's income includes his<u>/-or-her/their</u> community property interest in the income of his<u>/-or-her/their</u> spouse but does not include salary or reimbursement for expenses received from a state, local, or federal government agency.

 $<sup>^{6}</sup>$ - Income of a business entity is reportable if the direct, indirect, or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.



(E) Acquisition or Disposal during Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

#### Section 8. Prohibition on Receipt of Honoraria

- (A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his/her/their statement of economic interests. This section shall not apply to any parttime member of the governing board of any public institution of higher education, unless the member is also an elected official. Subdivisions (a), (b), and (c) of Government Code Section 89501 shall apply to the prohibitions in this section.
- (B) This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section 89506.

### Section 8.1. Prohibition on Receipt of Gifts in Excess of \$470469

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$470460 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official. Subdivisions (e), (f), and (g) of Government Code Section 89503 shall apply to the prohibitions in this section.

### Section 8.2. Loans to Public Officials

- (A) No elected officers of a state or local government agencyagencies shall, from the date of his/her\_their\_election to office through the date that he/she\_they\_vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officers holds office or over which the elected officer's agency agencies has have direction and control.
- (B) No public officials who is-are exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while <u>he/she-they</u> holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public officials holds office or over which the public official's' <u>agency-agencies hashave</u> direction



and control. This subdivision shall not apply to loans made to  $\frac{1}{2}$ -public officials whose duties are solely secretarial, clerical, or manual.

- (C) No elected officers of a-state or local government agency agencies shall, from the date of his/her-their election to office through the date that he/she-they vacates office, receive a personal loan from any person who has a contract with the state or local government agency agencies to which thatthe elected officers hashave been elected or over which thatthe elected officer's agency agencies hashave direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.
- (D) No public officials who isare exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he/shethey holds office, receive a personal loan from any person who has a contract with the state or local government agencyagencies to which thatthe elected officers hashave been elected or over which thatthe elected officer's agencyagencies hashave direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's' official status. This subdivision shall not apply to loans made to a public officials whose duties are solely secretarial, clerical, or manual.
- (E) This section shall not apply to the following:
  - 1. Loans made to the campaign committee of an elected officer or candidate for elective office.
  - 2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, –aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
  - 3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.
  - 4. Loans made, or offered in writing, before January 1, 1998.

#### Section 8.3. Loan Terms

(A) Except as set forth in subdivision (B), no elected officers of a-state or local government agencyagencies shall, from the date of his/hertheir election to office through the date



he/shethey vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

- (B) This section shall not apply to the following types of loans:
  - 1. Loans made to the campaign committee of the elected officers.
  - 2. Loans made to the elected officers by <u>his/hertheir</u> spouses, child<u>ren</u>, parents, grandparents, grandchild<u>ren</u>, brothers, sisters, parents-in-law, brothers-in-law, sisters-in-law, nephews, nieces, aunts, uncles, or first cousins, or the spouses of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
  - 3. Loans made, or offered in writing, before January 1, 1998.
- (C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

### Section 8.4. Personal Loans

- (A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:
  - 1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
  - 2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
    - a. The date the loan was made.
    - b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.
    - c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.
- (B) This section shall not apply to the following types of loans:
  - 1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
  - 2. A loan that would otherwise not be a gift as defined in this title.
  - 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
  - 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken



collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

- 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.
- (C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

#### Section 9. Disqualification

No designated employees shall make, participate in making, or in any way attempt to use <u>his/her</u> <u>their</u> official positions to influence the making of any governmental decision which <u>he/she-they</u> knows or <u>hashave</u> reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the officials, or a member of <u>his/hertheir</u> immediate family or on:

- (A) Any business entity in which the designated employees <u>hashave</u> a direct or indirect investment worth two thousand dollars (\$2,000) or more;
- (B) Any real property in which the designated employee<u>s hashave</u> a direct or indirect interest worth two thousand dollars (\$2,000) or more;
- (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employees within 12 months prior to the time when the decision is made;
- (D) Any business entity in which the designated employees is are a directors, officers, partners, trustees, employees, or holds any position of management; or
- (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$460 or more provided to; received by, or promised to the designated employees within 12 months prior to the time when the decision is made.

### Section 9.3. Legally Required Participation

No designated employees shall be prevented from making or participating in the making of any decision to the extent <u>his/her\_their</u> participation is legally required for the decision to be made. The fact that the votes of a designated employees who <u>isare</u> on a voting body <u>isare</u> needed to break a tie does not make <u>his/her\_their</u> participation legally required for purposes of this section.



### Section 9.5. Disqualification of State Officers and Employees

In addition to the general disqualification provisions of section 9, no state administrative officials shall make, participate in making, or use <u>his/hertheir</u> official positions to influence any governmental decision directly relating to any contract where the state administrative officials knows or <u>hashave</u> reason to know that any party to the contract is a person with whom the state administrative officials, or any member of <u>his/hertheir</u> immediate family has, within 12 months prior to the time when the official action is to be taken:

- (A) Eengaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
- (B) Eengaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.

#### Section 10. Disclosure of Disqualifying Interest

When a designated employees determines that he/shethey should not make a governmental decision because he/shethey hashave a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

#### Section 11. Assistance of the Commission and Counsel

Any designated employees who isare unsure of his/hertheir duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his/hertheir agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

#### Section 12. Violations

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal, and civil sanctions provided in the Political Reform Act, Government Code Sections 81000--91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

#### Section 13. Designated Positions and Disclosure Requirements

(A) The persons occupying the following positions manage public investments. They shall file a full statement of economic interests pursuant to Government Code Sections 87200 et seq.:



Governing Board Superintendent/President Vice President for Academic Affairs Vice President for Student Services Vice President for Administrative Services Vice President of Advancement Consulting Attorneys

(B) **Designated positions**, and the Disclosure Categories assigned to them, are as follows:

Designated Positions	Disclosure Categories
1. Governing Board	1,2,3,4,5,6
2. Superintendent/President	1,2,3,4,5,6
3. Vice President for Academic Affairs	1,2,3,4,5,6
4. Vice President for Student Services	1,2,3,4,5,6
5. Vice President for Administrative Services	1,2,3,4,5,6
6. Vice President of Advancement	1,2,3,4,5,6
7. Consulting Attorneys	1,2,3,4,5,6
8. Administrators:	
Deans of Instruction	5,6
Dean of Instructional Planning	<del>5,6</del>
Dean of Planning, Research, and Institutional Effectiveness	5,6
Deans of Student Services	5,6
Human Resources Lead (Acting)	<u>5,6</u>
Associate Dean of Human ResourcesChief Human Resources &	5,6
Employee Relations Officer	
9. Others (will include all who are authorized to purchase	
within a given budget allowance):	
Controller	4,5,6
Custodial/Evening Site Supervisor	5,6
Director, Academic Pathways and Partnerships	<u>5,6</u>
Director of Admissions and Records	5,6
Director, Athletics	5,6
Director, Child Development Center Early	5,6
Childhood Education Lab School	
Director, English Study Skills and Reading Center	<u>5,6</u>



Designated Positions	Disclosure Categories
Director, Facilities, Planning and Management	5,6
Director, Hispanic Serving Institution Initiatives	<u>5,6</u>
and Grants	
Director, Information Systems	5,6
Director, Institutional Research	5,6
Director, Library Services	<u>5,6</u>
Director, Marina Education Center	<u>5,6</u>
Director, Marine Advanced Technology Education (MATE)	5,6
Associate Director, Marine Advanced Technology Education (MATE)	5,6
Director, Marketing and Communications	5,6
Director, Maurine Church Coburn School of Nursing	5,6
Director, Security and Emergency Operations	5,6
Director, Public Safety Training Center	5,6
Director, Student Financial Services	5,6
Director, Student Success and Equity	5,6
Facilities Operations Supervisor	5,6
Purchasing Agent	4,5,6
Division Chairpersons of:	5,6
Business/Technology	5,6
Counseling	5,6
Creative Arts	5,6
Humanities	5,6
Library & Technology Center	5,6
Life Science	5,6
Physical Education	5,6
Physical Science	5,6
Social Science	5,6
Consultants	1,2,3,4,5,6

Consultants must be included in the list of designated employees and must disclose pursuant to the broadest disclosure category in this Code subject to the following limitation: The Superintendent/President or designee may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to comply fully with the disclosure



requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based on that description, a statement of the extent of disclosure requirements. The Superintendent/President or designee's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

(C) Disclosure Categories: The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property which the designated employees must <u>disclosedisclosure</u> for each disclosure category to which he/she<u>/they</u> is assigned.

**Category 1:** All investments and business positions and sources of income from, business entities that do business with the District or own real property within the boundaries of the District, plan to do business or own real property within in the boundaries of the District within the next year, or have done business with or owned real property within the boundaries of the boundaries of the District within the past two years.

**Category 2:** All interests in real property which is located in whole or in part within, or not more than two miles outside, the boundaries of the District.

**Category 3:** All investments and business positions in, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the District, plan to engage in such activities within the jurisdiction of the District within the next year, or have engaged in such activities within the jurisdiction of the District within the past two years.

**Category 4:** All investments and business positions in, and sources of income from, business entities that are banking, savings and loan, or other financial institutions.

**Category 5:** All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the District.

**Category 6:** All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Designated Employee's Department.



See Board Policy/Administrative Procedure 2710 - Conflict of Interest

**References:** Government Code Sections 87103(e), 87300-87302, 89501, 89502, and 89503; Title 2 Section 18730

Formerly Governing Board Policy Appendix 1300 – Conflict of Interest Code Adopted: April 13, 1988 Revised: December 5, 2003; November 23, 2004; December 14, 2016 Renumbered, Revised, and Adopted: June 29, 2017 Revised and Adopted:



#### Chapter 2 Board of Trustees

2712

### AP 2712 Conflict of Interest Code

**NOTE:** This procedure is essentially verbatim from Title 2 Sections 18730 et seq. The numbering system reflects the system used in the code and includes gaps in numbering. The first paragraph states that if an agency adopts the verbatim text of that regulation, the agency will be presumed to have adopted a code that complies with the Political Reform Act.

Pursuant to Section 18730 of Title 2 of the California Code of Regulations, incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in **Section 13** below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section 87300 or the amendment of a conflict of interest code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code Sections 81000 et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest conflicts of interest.

#### Section 1. Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regulations Sections 18100 et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

### Section 2. Designated Employees

The persons holding positions listed in **Section 13** are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

### Section 3. Disclosure Categories

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same



capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economics interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code Sections 87200 et seq. In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

- (A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;
- (B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code Section 87200; and
- (C) The filing officer is the same for both agencies.<sup>1</sup> Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in Section 13 specify which kinds of economic interests are reportable. Such designated employees shall disclose in their statements of economic interests those economic interests they have which are of the kind described in the disclosure categories to which they are assigned in Section 13. It has been determined that the economic interests set forth in designated employees' disclosure categories are the kinds of economic interests which they foreseeably can affect materially through the conduct of their office.

### Section 4. Statements of Economic Interests: Place of Filing

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.<sup>2</sup>

<sup>&</sup>lt;sup>1</sup> Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

<sup>&</sup>lt;sup>2</sup> See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.



#### Section 5. Statements of Economic Interests: Time of Filing

- (A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.
- (B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.
- (C) Annual Statements. All designated employees shall file statements no later than April 1.
- (D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

#### Section 5.5. Statements for Persons Who Resign Prior to Assuming Office

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he/she/they did not make or participate in the making of, or use his/her/their position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his/her/their appointment. Such persons shall not file either an assuming or leaving office statement.

- (A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:
  - 1. File a written resignation with the appointing power; and
  - 2. File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he/she/they did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

#### Section 6. Contents of and Period Covered by Statements of Economic Interests

- (A) Contents of Initial Statements. Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.
- (B) Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date



of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

- (C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office, whichever is later.
- (D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

#### Section 7. Manner of Reporting

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

- (A) Investments and Real Property Disclosure. When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</sup> the statement shall contain the following:
  - 1. A statement of the nature of the investment or interest;
  - 2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
  - 3. The address or other precise location of the real property;
  - A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

<sup>&</sup>lt;sup>3</sup> For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>&</sup>lt;sup>4</sup> Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse, and dependent children own, in the aggregate, a direct, indirect, or beneficial interest of 10 percent or greater.



- (B) Personal Income Disclosure. When personal income is required to be reported,<sup>5</sup> the statement shall contain:
  - 1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
  - A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
  - 3. A description of the consideration, if any, for which the income was received;
  - 4. In the case of a gift, the name, address, and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
  - 5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.
- (C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,<sup>6</sup> the statement shall contain:
  - 1. The name, address, and a general description of the business activity of the business entity;
  - 2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).
- (D) Business Position Disclosure. When business positions are required to be reported, designated employees shall list the name and address of each business entity in which they are directors, officers, partners, trustees, employees, or in which they hold any position of management, a description of the business activity in which the business entity is engaged, and the designated employees' position(s) with the business entity.

<sup>&</sup>lt;sup>5</sup> A designated employee's income includes his/her/their community property interest in the income of his/her/their spouse but does not include salary or reimbursement for expenses received from a state, local, or federal government agency.

<sup>&</sup>lt;sup>6</sup> Income of a business entity is reportable if the direct, indirect, or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.



(E) Acquisition or Disposal during Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

### Section 8. Prohibition on Receipt of Honoraria

- (A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his/her/their statement of economic interests. This section shall not apply to any parttime member of the governing board of any public institution of higher education, unless the member is also an elected official. Subdivisions (a), (b), and (c) of Government Code Section 89501 shall apply to the prohibitions in this section.
- (B) This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section 89506.

### Section 8.1. Prohibition on Receipt of Gifts in Excess of \$470

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$470 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official. Subdivisions (e), (f), and (g) of Government Code Section 89503 shall apply to the prohibitions in this section.

### Section 8.2. Loans to Public Officials

- (A) No elected officers of state or local government agencies shall, from the date of their election to office through the date that they vacate office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officers hold office or over which the elected officers' agencies have direction and control.
- (B) No public officials who are exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while they hold office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public officials hold office or over which the public officials' agencies have direction and control. This subdivision



shall not apply to loans made to public officials whose duties are solely secretarial, clerical, or manual.

- (C) No elected officers of state or local government agencies shall, from the date of their election to office through the date that they vacate office, receive a personal loan from any person who has a contract with the state or local government agencies to which the elected officers have been elected or over which the elected officers' agencies have direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lenders' regular course of business on terms available to members of the public without regard to the elected officers' official status.
- (D) No public officials who are exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while they hold office, receive a personal loan from any person who has a contract with the state or local government agencies to which the elected officers have been elected or over which the elected officers' agencies have direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lenders' regular course of business on terms available to members of the public without regard to the elected officers' official status. This subdivision shall not apply to loans made to public officials whose duties are solely secretarial, clerical, or manual.
- (E) This section shall not apply to the following:
  - 1. Loans made to the campaign committee of an elected officer or candidate for elective office.
  - 2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
  - 3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.
  - 4. Loans made, or offered in writing, before January 1, 1998.

#### Section 8.3. Loan Terms

(A) Except as set forth in subdivision (B), no elected officers of state or local government agencies shall, from the date of their election to office through the date they vacate



office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

- (B) This section shall not apply to the following types of loans:
  - 1. Loans made to the campaign committee of the elected officers.
  - 2. Loans made to the elected officers by their spouses, children, parents, grandparents, grandchildren, brothers, sisters, parents-in-law, brothers-in-law, sisters-in-law, nephews, nieces, aunts, uncles, or first cousins, or the spouses of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
  - 3. Loans made, or offered in writing, before January 1, 1998.
- (C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

### Section 8.4. Personal Loans

- (A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:
  - 1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
  - 2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
    - a. The date the loan was made.
    - b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.
    - c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.
- (B) This section shall not apply to the following types of loans:
  - 1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
  - 2. A loan that would otherwise not be a gift as defined in this title.
  - 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
  - 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken



collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

- 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.
- (C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

### Section 9. Disqualification

No designated employees shall make, participate in making, or in any way attempt to use their official positions to influence the making of any governmental decision which they know or have reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the officials, or a member of their immediate family or on:

- (A) Any business entity in which the designated employees have a direct or indirect investment worth two thousand dollars (\$2,000) or more;
- (B) Any real property in which the designated employees have a direct or indirect interest worth two thousand dollars (\$2,000) or more;
- (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employees within 12 months prior to the time when the decision is made;
- (D) Any business entity in which the designated employees are directors, officers, partners, trustees, employees, or hold any position of management; or
- (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$460 or more provided to; received by, or promised to the designated employees within 12 months prior to the time when the decision is made.

### Section 9.3. Legally Required Participation

No designated employees shall be prevented from making or participating in the making of any decision to the extent their participation is legally required for the decision to be made. The fact that the votes of designated employees who are on a voting body are needed to break a tie does not make their participation legally required for purposes of this section.



### Section 9.5. Disqualification of State Officers and Employees

In addition to the general disqualification provisions of section 9, no state administrative officials shall make, participate in making, or use their official positions to influence any governmental decision directly relating to any contract where the state administrative officials know or have reason to know that any party to the contract is a person with whom the state administrative officials, or any member of their immediate family has, within 12 months prior to the time when the official action is to be taken:

- (A) engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
- (B) engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.

### Section 10. Disclosure of Disqualifying Interest

When designated employees determine that they should not make a governmental decision because they have a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

### Section 11. Assistance of the Commission and Counsel

Any designated employees who are unsure of their duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for their agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

#### Section 12. Violations

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal, and civil sanctions provided in the Political Reform Act, Government Code Sections 81000-91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

### Section 13. Designated Positions and Disclosure Requirements

(A) The persons occupying the following positions manage public investments. They shall file a full statement of economic interests pursuant to Government Code Sections 87200 et seq.:



Governing Board Superintendent/President Vice President for Academic Affairs Vice President for Student Services Vice President for Administrative Services Vice President of Advancement Consulting Attorneys

(B) **Designated positions**, and the Disclosure Categories assigned to them, are as follows:

Designated Positions	Disclosure Categories
1. Governing Board	1,2,3,4,5,6
2. Superintendent/President	1,2,3,4,5,6
3. Vice President for Academic Affairs	1,2,3,4,5,6
4. Vice President for Student Services	1,2,3,4,5,6
5. Vice President for Administrative Services	1,2,3,4,5,6
6. Vice President of Advancement	1,2,3,4,5,6
7. Consulting Attorneys	1,2,3,4,5,6
8. Administrators:	
Deans of Instruction	5,6
Dean of Planning, Research, and Institutional Effectiveness	5,6
Deans of Student Services	5,6
Human Resources Lead (Acting)	5,6
Chief Human Resources & Employee Relations Officer	5,6
<ol> <li>Others (will include all who are authorized to purchase within a given budget allowance):</li> </ol>	
Controller	4,5,6
Custodial/Evening Site Supervisor	5,6
Director, Academic Pathways and Partnerships	5,6
Director of Admissions and Records	5,6
Director, Athletics	5,6
Director, Early Childhood Education Lab School	5,6
Director, English Study Skills and Reading Center	5,6



Designated Positions	Disclosure Categories
Director, Facilities, Planning and Management	5,6
Director, Hispanic Serving Institution Initiatives and Grants	5,6
Director, Information Systems	5,6
Director, Institutional Research	5,6
Director, Library Services	5,6
Director, Marina Education Center	5,6
Director, Marine Advanced Technology Education (MATE)	5,6
Associate Director, Marine Advanced Technology Education (MATE)	5,6
Director, Marketing and Communications	5,6
Director, Maurine Church Coburn School of Nursing	5,6
Director, Security and Emergency Operations	5,6
Director, Public Safety Training Center	5,6
Director, Student Financial Services	5,6
Director, Student Success and Equity	5,6
Facilities Operations Supervisor	5,6
Purchasing Agent	4,5,6
Division Chairpersons of:	5,6
Business/Technology	5,6
Counseling	5,6
Creative Arts	5,6
Humanities	5,6
Library & Technology Center	5,6
Life Science	5,6
Physical Education	5,6
Physical Science	5,6
Social Science	5,6
Consultants	1,2,3,4,5,6

Consultants must be included in the list of designated employees and must disclose pursuant to the broadest disclosure category in this Code subject to the following limitation: The Superintendent/President or designee may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to comply fully with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based on that description, a statement of the



extent of disclosure requirements. The Superintendent/President or designee's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

(C) **Disclosure Categories:** The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property which the designated employees must disclose for each disclosure category to which he/she/they is assigned.

**Category 1:** All investments and business positions and sources of income from, business entities that do business with the District or own real property within the boundaries of the District, plan to do business or own real property within in the boundaries of the District within the next year, or have done business with or owned real property within the boundaries of the boundaries of the District within the past two years.

**Category 2:** All interests in real property which is located in whole or in part within, or not more than two miles outside, the boundaries of the District.

**Category 3:** All investments and business positions in, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the District, plan to engage in such activities within the jurisdiction of the District within the next year, or have engaged in such activities within the jurisdiction of the District within the past two years.

**Category 4:** All investments and business positions in, and sources of income from, business entities that are banking, savings and loan, or other financial institutions.

**Category 5:** All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the District.

**Category 6:** All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Designated Employee's Department.

See Board Policy/Administrative Procedure 2710 – Conflict of Interest



**References:** Government Code Sections 87103(e), 87300-87302, 89501, 89502, and 89503; Title 2 Section 18730

Formerly Governing Board Policy Appendix 1300 – Conflict of Interest Code Adopted: April 13, 1988 Revised: December 5, 2003; November 23, 2004; December 14, 2016 Renumbered, Revised, and Adopted: June 29, 2017 Revised and Adopted: December 16, 2020



# MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT RESOLUTION NO. <u>20:52</u>

# AMEND MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT'S CONFLICT OF INTEREST CODE (ADMINISTRATIVE PROCEDURE 2712)

WHEREAS, pursuant to Government Code sections 87300 and 87301, the Monterey Peninsula Community College District in the County of Monterey has adopted a conflict of interest code; and

WHEREAS, pursuant to Government Code section 87306, the Monterey Peninsula Community College District has amended its conflict of interest code as necessitated by changed circumstances; and

WHEREAS, the proposed code as amended is lawful under the Political Reform Act of 1974; and

WHEREAS, pursuant to Government Code sections 82011 and 87303, the Monterey Peninsula Community College District will submit its amended code to the Monterey County Board of Supervisors, the code reviewing body, for approval;

NOW, THEREFORE, BE IT RESOLVED, that the Governing Board of the Monterey Peninsula Community College District amend the District's Conflict of Interest Code (Administrative Procedure 2712).

PASSED AND ADOPTED by the Governing Board of Trustees of Monterey Peninsula Community College District this 16<sup>th</sup> day of December 2020, by the following vote:

Ayes: Trustees Yuri Anderson, Debbie Anthony, Libby Downey, Rosalyn Green, Loren Steck

Noes:

Abstentions:

Absent: Student Trustee Hill

Ms. Yuri C. Anderson Chair, Governing Board of Trustees

Mr. David Martin Superintendent/President and Secretary to the Governing Board of Trustees

# Before the Board of Supervisors in and for the County of Monterey, State of California

# Resolution No.Resolution revising and approving MontereyPeninsula Community College District'sAmended Conflict of Interest Code)

.....

WHEREAS, under Government Code sections 87300 and 87301, Monterey Peninsula Community College District (MPC) has adopted a Conflict of Interest Code;

WHEREAS, under Government Code section 87306, MPC amended its Conflict of Interest Code to add new positions, revise titles of existing positions, delete titles of positions that have been abolished, and replace gender-specific language with gender-neutral language;

WHEREAS, under Sections 82011 and 87303 of the Government Code, MPC submitted its amended Code to the Monterey County Board of Supervisors, the code reviewing body under the Political Reform Act, for approval;

WHEREAS, MPC's amended Conflict of Interest Code is appended hereto as Attachment A and incorporated herein by reference;

WHEREAS, under Government Code section 87303, the Board of Supervisors as code reviewing body may approve the Code as submitted, may revise the proposed Code and approve it as revised, or may return the proposed Code to the agency for revision and resubmission; and

WHEREAS, the amended Code is lawful under the Political Reform Act of 1974;

NOW THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors does hereby revise the proposed code and does hereby approve the Amended Conflict of Interest Code of MPC attached hereto as Attachments A and B, and directs the Clerk of the Board of Supervisors to notify MPC of its approval.

PASSED AND ADOPTED upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, carried this \_\_\_\_\_ day of \_\_\_\_\_, by the following vote, to wit:

# AYES: NOES: ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_\_.

Dated: File Number: Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

By \_\_\_\_\_

Deputy

# Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No.	
Resolution revising and approving Monterey	)
Peninsula Community College District's	)
Amended Conflict of Interest Code	)

.....

WHEREAS, under Government Code sections 87300 and 87301, Monterey Peninsula Community College District (MPC) has adopted a Conflict of Interest Code;

WHEREAS, under Government Code section 87306, MPC amended its Conflict of Interest Code to add new positions, revise titles of existing positions, delete titles of positions that have been abolished, and replace gender-specific language with gender-neutral language;

WHEREAS, under Sections 82011 and 87303 of the Government Code, MPC submitted its amended Code to the Monterey County Board of Supervisors, the code reviewing body under the Political Reform Act, for approval;

WHEREAS, MPC's amended Conflict of Interest Code is appended hereto as Attachment A and incorporated herein by reference;

WHEREAS, under Government Code section 87303, the Board of Supervisors as code reviewing body may approve the Code as submitted, may revise the proposed Code and approve it as revised, or may return the proposed Code to the agency for revision and resubmission; and

WHEREAS, the amended Code is lawful under the Political Reform Act of 1974;

NOW THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors does hereby revise the proposed code and does hereby approve the Amended Conflict of Interest Code of MPC attached hereto as Attachments A and B, and directs the Clerk of the Board of Supervisors to notify MPC of its approval.

PASSED AND ADOPTED upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, carried this \_\_\_\_\_ day of \_\_\_\_\_, by the following vote, to wit:

# AYES: NOES: ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_\_.

Dated: File Number: Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

By \_\_\_\_\_

Deputy



# **Monterey County**

**Board Report** 

# Legistar File Number: RES 21-042

March 02, 2021

Item No.29

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

Introduced: 2/18/2021

Version: 1

Current Status: General Government -Consent Matter Type: BoS Resolution

a. Designate and authorize the Emergency Services Manager to execute an Agreement between the County of Monterey and United Way Monterey County (UWMC) and the Community Foundation of Monterey County for a Community Resilience grant: and

b. Authorize the Auditor-Controller to amend the Fiscal Year (FY) 2020-21 Office of Emergency Services Fund 024/1050/8412/CAO023 Budget to increase estimated revenue and appropriations in the amount of \$33,000. (4/5th Vote Required).

# ..Report

# **RECOMMENDATION:**

- a. Designate and authorize the Emergency Services Manager to execute an Agreement between the County of Monterey and United Way Monterey County (UWMC) and the Community Foundation of Monterey County for a Community Resilience grant: and
- b. Authorize the Auditor-Controller to amend the Fiscal Year (FY) 2020-21 Office of Emergency Services Fund 024/1050/8412/CAO023 Budget to increase estimated revenue and appropriations in the amount of \$33,000. (4/5th Vote Required).

# SUMMARY:

The Office of Emergency Services (OES) is seeking authorization to execute an Agreement between United Way Monterey County (UWMC) and the Community Foundation of Monterey County and the County of Monterey as a necessary step in order for the County to participate in the acceptance of a Community Resilience grant, in addition, OES is requesting authorization for the Auditor-Controller to increase estimated revenue and appropriations in the amount of \$33,000. due to unanticipated revenue and expenditures.

# DISCUSSION:

The Board of Supervisors will designate and authorize the Monterey County Emergency Manager to execute the Agreement on March 2, 2021 for the performance end date of February 28, 2023 for a second grant cycle of funding for a Community Resiliency Coordinator position at OES.

# OTHER AGENCY INVOLVEMENT:

County Counsel has approved the Agreement as to legal form.

# FINANCING:

United Way Monterey County and the Community Foundation of Monterey County funds will cover all expenses of salary costs and equipment purchases. The increased estimated revenue and appropriation will not impact the OES General Fund Contribution.

## BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

- X Economic Development
- X Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

Prepared by: Gerry R. Malais, Emergency Services Manager

Approved by: Nicholas E. Chiulos, Assistant County Administrative Officer

Attachments: MOU, Resolution



# **Monterey County**

# Item No.

**Board Report** 

Legistar File Number: RES 21-042

March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

Introduced: 2/18/2021

Version: 1

Current Status: Agenda Ready Matter Type: BoS Resolution

It is recommended that the Board of Supervisors approve and authorize the following:

- a. Designate and authorize the Emergency Services Manager to execute an Agreement between the County of Monterey and United Way Monterey County (UWMC) and the Community Foundation of Monterey County for a Community Resilience grant: and
- b. Authorize the Auditor-Controller to amend the Fiscal Year (FY) 2020-21 Office of Emergency Services Fund 024/1050/8412/CAO023 Budget to increase estimated revenue and appropriations in the amount of \$33,000. (4/5th Vote Required).

# ..Report

# RECOMMENDATION:

It is recommended that the Board of Supervisors approve and authorize the following:

- c. Designate and authorize the Emergency Services Manager to execute an Agreement between
- the County of Monterey and United Way Monterey County (UWMC) and the Community Foundation of Monterey County for a Community Resilience grant: and
- Authorize the Auditor-Controller to amend the Fiscal Year (FY) 2020-21 Office of Emergency Services Fund 024/1050/8412/CAO023 Budget to increase estimated revenue and appropriations in the amount of \$33,000. (4/5th Vote Required).

# SUMMARY:

The Office of Emergency Services (OES) is seeking authorization to execute an Agreement between United Way Monterey County (UWMC) and the Community Foundation of Monterey County and the County of Monterey as a necessary step in order for the County to participate in the acceptance of a Community Resilience grant, in addition, OES is requesting authorization for the Auditor-Controller to increase estimated revenue and appropriations in the amount of \$33,000. due to unanticipated revenue and expenditures.

# DISCUSSION:

The Board of Supervisors will designate and authorize the Monterey County Emergency Manager to execute the Agreement on March 2, 2021 for the performance end date of February 28, 2023 for a second grant cycle of funding for a Community Resiliency Coordinator position at OES.

# OTHER AGENCY INVOLVEMENT:

County Counsel has approved the Agreement as to legal form.

# FINANCING:

United Way Monterey County and the Community Foundation of Monterey County funds will cover

all expenses of salary costs and equipment purchases. The increased estimated revenue and appropriation will not impact the OES General Fund Contribution.

## BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

- X Economic Development
- X Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

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Prepared by: Gerry Malais, Emergency Services Manager

Approved by: Nicholas E. Chiulos, Assistant County Administrative Officer

Attachments: MOU, Resolution

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# Before the Board of Supervisors in and for the County of Monterey, State of California

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# **Resolution No.**

- a) Adopt a Resolution to approve an Agreement between County of Monterey and with United Way Monterey County and the Community Foundation of Monterey County for a Community Resilience grant; and
- b) Designate and authorize the Monterey County Emergency Services Manager to execute the Agreement.
- c) Authorize the Auditor-Controller to amend FY20-2021 OES Budget to increase estimated revenue and appropriations in the amount of \$33,000.

# **RECITALS:**

**WHEREAS**, the Board of Supervisors adopted a resolution that the County of Monterey can enter into an Agreement with United Way Monterey County and the Community Foundation of Monterey County for a Community Resilience grant

**WHEREAS**, the Board of Supervisors designated and authorized the Monterey County Emergency Services Manager to execute the Agreement on March 2, 2021 for the performance period March 30, 2021 through March 29, 2023. This includes the project of the Community Resiliency Coordinator position (two-year grant cycle of funding); and

**WHEREAS**, the Board of Supervisors authorizes the Auditor-Controller to amend FY20-2021 OES Budget 024/1050/8412/CAO023 to increase revenue and appropriations in the amount of \$33,000; and

**NOW, THEREFORE, BE IT PROCLAIMED** the Board of Supervisors of the County of Monterey, State of California, does hereby proclaim that the County of Monterey can enter into an Agreement with United Way Monterey County and the Community Foundation of Monterey County for a Community Resilience grant, in the amount not to exceed \$200,000, and that the Emergency Services Manager is authorized to execute the Agreement for the purposes of this grant, and the Auditor-Controller is authorized to amend the FY20-2021 Office of Emergency Services Fund 024/1050/8412/CAO023 Budget to increase estimated revenue and appropriations in the amount of \$33,000.00.

PASSED AND ADOPTED on this 2nd day of March, 2021, upon motion of Supervisor seconded by Supervisor , by the following vote, to-wit:

AYES: NOES: None ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of for the meeting on March 2, 2021.

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

By\_

Valerie Ralph, Clerk of the Board

# AGREEMENT BETWEEN THE COMMUNITY FOUNDATION FOR MONTEREY COUNTY AND UNITED WAY MONTEREY COUNTY AND THE COUNTY OF MONTEREY FOR THE DISTRIBUTION OF FY 2021-23 GRANT FUNDS

THIS AGREEMENT is made this March 2, 2021 amongst the Community Foundation for Monterey County and United Way Monterey County and the **COUNTY OF MONTEREY** ("MONTEREY).

# RECITALS

WHEREAS, The Office of Emergency Services for the County of Monterey (OES) successfully obtained a grant from the Urban Area Security Initiative (UASI) to fund a "Community Resilience Planner" position; and

WHEREAS, The position filled for this purpose has developed valuable relationships with many community groups, including United Way Monterey County Monterey County and the Community Foundation for Monterey County, 501(c)(3) entities; and

WHEREAS, The existing grant for the Community Resilience Planner is scheduled to end in March 2021; and

WHEREAS, United Way Monterey County, the Community Foundation for Monterey County and the OES Manager all see the need for the work that has been performed by this Community Resilience Planner to continue; and

WHEREAS, United Way Monterey County and the Community Foundation for Monterey County have negotiated with the OES Manager to fund the continuation of this Community Resilience Planner for an additional two years; and

WHEREAS, the Community Resilience Planner will be known as a Community Resilience Coordinator while funded by United Way Monterey County and the Community Foundation for Monterey County; and

WHEREAS, United Way Monterey County and the Community Foundation for Monterey County will each contribute \$100,000 to fund this grant for a two-year period, with each paying \$50,000 annually at the beginning of each grant cycle;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

The Office of Emergency Services for the County of Monterey (OES) is funding a "Community Resilience Planner" position with monies obtained in a grant from the Urban Area Security Initiative (UASI), until March 30, 2021.

Thereafter, United Way Monterey County and the Community Foundation for Monterey County will fund the continuation of this position, with a change in the title to, "Community Resilience Coordinator," for an additional two years, by each contributing \$50,000 each year, for a cumulative total of \$100,000 each, \$200,000 total from both, in order to fund this position for the two-year term of this agreement, from April 1, 2021, through March 30, 2023. United Way Monterey County and the Community Foundation for Monterey County, will be invoiced annually by the county through the Monterey County, Office of the Auditor Controller. (At the beginning of each year's grant cycle).

By\_\_\_\_\_

(Signature)

Name: Gerry R. Malais

Title: Office of Emergency Operations, Manager

County of Monterey

Date: March 2, 2021

By\_\_\_\_\_

(Signature)

Name: Katy Castagna

Title:

President and CEO, United Way Monterey County, \_\_\_\_\_

Date: March 2, 2021

By\_\_\_\_\_

(Signature)

Name: Dan Baldwin

Title: President/CEO, Community Foundation for Monterey County

Date: March 2, 2021

By\_\_\_\_\_

(Signature)

Name: Michael Derr

Title: Contracts Purchasing Officer

County of Monterey

Date: March 2, 2021



# **Monterey County**

**Board Report** 

Legistar File Number: 21-152

Item No.30

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/11/2021

Version: 1

Current Status: RMA Public Works -Consent Matter Type: General Agenda Item

a. Approve Professional Services Agreement with Rincon Consultants, Inc., to prepare an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, and the Contingency Budget is \$19,416.30, for a total amount not to exceed \$148,858.30, for a term from February 24, 2021 to February 23, 2026;
b. Approve a Funding Agreement with The Don Chapin Company, Inc., to fund costs for Rincon Consultants, Inc., incurred by Monterey County for preparing an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, the Contingency Budget is \$19,416.30, and the Contract Administration Fee is \$3,424.00, for a total amount not to exceed \$152,282.30, for a term from February 24, 2021 to February 23, 2026; and c. Authorize the Housing and Community Development Director or designee to execute the Professional Services Agreement, Funding Agreement and up to three (3) future amendments to the Agreements where the amendments do not significantly alter the scope of work or increase the approved amount of the Agreements, subject to review and approval by the Office of the County Counsel as to form.

# **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

a. Approve Professional Services Agreement with Rincon Consultants, Inc., to prepare an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, and the Contingency Budget is \$19,416.30, for a total amount not to exceed \$148,858.30, for a term from February 24, 2021 to February 23, 2026;
b. Approve a Funding Agreement with The Don Chapin Company, Inc., to fund costs for Rincon Consultants, Inc., incurred by Monterey County for preparing an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, the Contingency Budget is \$19,416.30, and the Contract Administration Fee is \$3,424.00, for a total amount not to exceed \$152,282.30, for a term from February 24, 2021 to February 23, 2026; and c. Authorize the Housing and Community Development Director or designee to execute the Professional Services Agreement, Funding Agreement and up to three (3) future amendments to the Agreements where the amendments do not significantly alter the scope of work or increase the approved amount of the Agreements, subject to review and approval by the Office of the County Counsel as to form.

# SUMMARY/DISCUSSION:

In December 2006, the County of Monterey Housing and Community Development (HCD) Department, formerly Resource Management Agency (RMA) (hereinafter, County), received an application (PLN050692) for the Charolais Ranch Subdivision Project (Project). The Project, located in north Monterey County just south of Pesante Road, east of Prunedale (Assessor's Parcel Number 125-051-012-00), includes the subdivision of 130.8 acres into twenty-six (26) residential lots ranging in size from approximately one and one-half (1.5) to three and one-half (3.5) acres and three (3) separate open space areas totaling 73.23 acres.

As a large-scale subdivision, potentially significant impacts may result from the subdivision project including but not limited to traffic, biology, and water supply, which need to be analyzed as part of an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA). The Professional Services Agreement (PSA) between the County and Rincon Consultants, Inc., will allow for the preparation of the EIR for the Project for a total amount not to exceed \$148,858.30 (\$129,442.00 for Base Budget and \$19,416.30 for Contingency Budget) for a term from February 24, 2021 to February 23, 2026. The Funding Agreement (FA) between the County and The Don Chapin Company, Inc. (Project Applicant), will allow funding to the County for costs associated with the completion of the EIR in the same amount and within the same timeframe as the PSA.

# OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Auditor-Controller's Office have reviewed and approved the PSA and FA as to form and fiscal provisions, respectively.

# FINANCING:

Pursuant to the terms of the FA between The Don Chapin Company, Inc., and the County, EIR services provided by Rincon Consultants, Inc., and County Contract Administration fees will be paid by The Don Chapin Company, Inc., with an advanced deposit. Separate fees for County staff costs associated with the Project will be paid by the Project Applicant in accordance with the County of Monterey Land Use Fee Schedule. The PSA and FA are structured so that there is no cost to the County associated with these Agreements with no impact to the General Fund.

# BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The PSA with Rincon Consultants, Inc., and FA with the Project Applicant will allow for completion of an EIR for the Project which could potentially impact the revenue base and quality of life within the County. All services to complete the EIR are fully funded by the Project Applicant. The recommended action supports the BOS Strategic Initiatives as indicated below:

- X Economic Development Administration Health and Human Services
- X Infrastructure Public Safety

Prepared by: Kathleen Nielsen, Management Analyst II, HCD Special Programs

Reviewed by: Craig Spencer, HCD Planning Services Manager Approved by: Mike Novo, AICP, Housing and Community Development Interim Director

The following attachments are on file with the Clerk of the Board: Attachment A - PSA with Rincon Consultants, Inc. Attachment B - FA with The Don Chapin Company, Inc.



# **Monterey County**

**Board Report** 

Legistar File Number: 21-152

Item No.

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/11/2021 Version: 1 Current Status: Agenda Ready Matter Type: General Agenda Item

a. Approve Professional Services Agreement with Rincon Consultants, Inc., to prepare an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, and the Contingency Budget is \$19,416.30, for a total amount not to exceed \$148,858.30, for a term from February 24, 2021 to February 23, 2026;
b. Approve a Funding Agreement with The Don Chapin Company, Inc., to fund costs for Rincon Consultants, Inc., incurred by Monterey County for preparing an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, the Contingency Budget is \$19,416.30, and the Contract Administration Fee is \$3,424.00, for a total amount not to exceed \$152,282.30, for a term from February 24, 2021 to February 23, 2026; and c. Authorize the Housing and Community Development Director or designee to execute the Professional Services Agreement, Funding Agreement and up to three (3) future amendments to the Agreements where the amendments do not significantly alter the scope of work or increase the approved amount of the Agreements, subject to review and approval by the Office of the County Counsel as to form.

# **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

a. Approve Professional Services Agreement with Rincon Consultants, Inc., to prepare an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, and the Contingency Budget is \$19,416.30, for a total amount not to exceed \$148,858.30, for a term from February 24, 2021 to February 23, 2026;
b. Approve a Funding Agreement with The Don Chapin Company, Inc., to fund costs for Rincon Consultants, Inc., incurred by Monterey County for preparing an Environmental Impact Report for the Charolais Ranch Subdivision Project (PLN050692) where the Base Budget is \$129,442.00, the Contingency Budget is \$19,416.30, and the Contract Administration Fee is \$3,424.00, for a total amount not to exceed \$152,282.30, for a term from February 24, 2021 to February 23, 2026; and c. Authorize the Housing and Community Development Director or designee to execute the Professional Services Agreement, Funding Agreement and up to three (3) future amendments to the Agreements where the amendments do not significantly alter the scope of work or increase the approved amount of the Agreements, subject to review and approval by the Office of the County Counsel as to form.

#### Legistar File Number: 21-152

# SUMMARY/DISCUSSION:

In December 2006, the County of Monterey Housing and Community Development (HCD) Department, formerly Resource Management Agency (RMA) (hereinafter, County), received an application (PLN050692) for the Charolais Ranch Subdivision Project (Project). The Project, located in north Monterey County just south of Pesante Road, east of Prunedale (Assessor's Parcel Number 125-051-012-00), includes the subdivision of 130.8 acres into twenty-six (26) residential lots ranging in size from approximately one and one-half (1.5) to three and one-half (3.5) acres and three (3) separate open space areas totaling 73.23 acres.

As a large-scale subdivision, potentially significant impacts may result from the subdivision project including but not limited to traffic, biology, and water supply, which need to be analyzed as part of an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA). The Professional Services Agreement (PSA) between the County and Rincon Consultants, Inc., will allow for the preparation of the EIR for the Project for a total amount not to exceed \$148,858.30 (\$129,442.00 for Base Budget and \$19,416.30 for Contingency Budget) for a term from February 24, 2021 to February 23, 2026. The Funding Agreement (FA) between the County and The Don Chapin Company, Inc. (Project Applicant), will allow funding to the County for costs associated with the completion of the EIR in the same amount and within the same timeframe as the PSA.

## OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Auditor-Controller's Office have reviewed and approved the PSA and FA as to form and fiscal provisions, respectively.

# FINANCING:

Pursuant to the terms of the FA between The Don Chapin Company, Inc., and the County, EIR services provided by Rincon Consultants, Inc., and County Contract Administration fees will be paid by The Don Chapin Company, Inc., with an advanced deposit. Separate fees for County staff costs associated with the Project will be paid by the Project Applicant in accordance with the County of Monterey Land Use Fee Schedule. The PSA and FA are structured so that there is no cost to the County associated with these Agreements with no impact to the General Fund.

# BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The PSA with Rincon Consultants, Inc., and FA with the Project Applicant will allow for completion of an EIR for the Project which could potentially impact the revenue base and quality of life within the County. All services to complete the EIR are fully funded by the Project Applicant. The recommended action supports the BOS Strategic Initiatives as indicated below:

- X Economic Development Administration Health and Human Services
- X Infrastructure Public Safety

Prepared by: Kathleen Nielsen, Management Analyst II, HCD Special Programs Reviewed by: Craig Spencer, HCD Planning Services Manager Legistar File Number: 21-152

Approved by: Mike Novo, AICP, Housing and Community Development Interim Director

The following attachments are on file with the Clerk of the Board: Attachment A - PSA with Rincon Consultants, Inc. Attachment B - FA with The Don Chapin Company, Inc.

# Attachment A

# This page intentionally left blank.

# <u>COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES</u> WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS (MORE THAN \$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: Rincon Consultants, 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 preparation of an Environmental Impact Report (EIR) for the Charolais Ranch Subdivision Project.

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 \$ 148,858.30

3. TERM OF AGREEMENT. The term of this Agreement is from February 24, 2021 to February 23, 2026, 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 Indemnification Replacement

# 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.

\*Approved by County Board of Supervisors on

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.

 $\underbrace{KV}_{Contractors' Initials} \underbrace{SS}_{Date} \frac{2/10/2021}{2/10/2021}$ 

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.



2/10/2021

\_\_\_\_ See Exhibit B.

8.02\_Indemnification for Design Professional Services Claims: Date CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY. SS 2/10/2021 2/10/2021

#### \_\_\_\_/\_\_\_\_ See Exhibit B. 8.03 Indemnification for All Other Claims or Loss: Contractors' Initials

For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR'S performance of design professional services under this Agreement, CONTRACTOR shall-indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

# 9.0 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 such, insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

#### 9.02 **Oualifying 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.

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

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<u>Commercial general liability insurance</u>, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform 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.

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 \$1,000,000 per occurrence.

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.

Modification (Justification attached; subject to approval).

<u>Professional liability insurance</u>, 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.

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.

<u>Commercial general liability and automobile liability policies shall provide an endorsement</u> 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</u>

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 <u>Confidentiality</u>. 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 <u>County Records.</u> 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 <u>Maintenance of Records.</u> 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.

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- 10.04 <u>Access to and Audit of Records.</u> 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 <u>Royalties and Inventions.</u> 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:
Shandy Carroll, Management Analyst III	Megan Jones, Principal
Name and Title Housing and Community Development 1441 Schilling Place, 2nd Floor Salinas, CA 93901	Name and Title Rincon Consultants, Inc. 437 Figueroa Street, Suite 203 Monterey, CA 93940
Address	Address
(831) 784-5643   194-HCD-Contracts@co.monterey.ca.us	(831) 920-5424
Phone	Dhone

Phone

# 15. MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest</u>. 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 <u>Amendment.</u> This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver</u>. 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 <u>Contractor</u>. 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 <u>Assignment and Subcontracting</u>. 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 <u>Successors and Assigns</u>. 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 <u>Compliance with Applicable Law.</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>. 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 <u>Governing Law.</u> This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 <u>Non-exclusive Agreement</u>. 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 <u>Construction of Agreement.</u> 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 <u>Counterparts.</u> 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 <u>Authority.</u> 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 <u>Integration</u>. 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 <u>Interpretation of Conflicting Provisions.</u> 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.

This space is left blank, intentionally.

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

COUNTY OF MONTEREY	CONTRACTOR
3y:	
Purchasing Officer Date:	Rincon Consultants, Inc. Contractor's Business Name*
By:	DocuSigned by:
Department Head (if applicable)	By: Richard Daulton
and the magnetic starter distance of the spin	(Signature of Chair, President, or Vice-President)*
Ву:	Richard Daulton, Vice-President
Board of Supervisors (if applicable) Date:	Date: 2/10/2021 Name and Title
Approved as to Form <sup>1</sup>	All of the second of the form of the second
By:	DocuSigned by:
County Counsel Date:	By: Stylun Swite (Signature of Secretary, Asst. Secretary, CFO,
Approved as to Fiscal Provisions <sup>2</sup>	Treasurer or Asst. Treasurer)* Stephen Svete, AICP, LEED AP ND <u>Executive Vice President</u> Name and Title
By:	Date: 2/10/2021
Auditor/Controller	
Date:	
Approved as to Liability Provisions <sup>3</sup>	(i) and the second s
Ву:	
Risk Management Date:	
unty Board of Supervisors' Agreement Number:	Type and the second sec

\*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>&</sup>lt;sup>1</sup>Approval by County Counsel is required for all Professional Service Agreements over \$100,000

<sup>&</sup>lt;sup>2</sup>Approval by Auditor/Controller is required for all Professional Service Agreements

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

# To Agreement by and between County of Monterey, hereinafter referred to as "County" AND Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

# A. SCOPE OF SERVICES

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

# TASK 1 - Project Kickoff:

CONTRACTOR will coordinate with County staff to confirm study objectives during a kickoff meeting. Due to COVID-era work protocols it is anticipated that this meeting will be held via a video-conferencing platform. This meeting will allow the County and CONTRACTOR an opportunity to clarify the project description and the technical approach to environmental evaluation. We can also address any community concerns regarding the project that have surfaced to date. Prior to this meeting, CONTRACTOR will identify key information and documents that will be needed to complete the analysis. We will provide meeting minutes highlighting action items and next steps.

# TASK 2 - Project Description:

Working with the County's Project Manager, CONTRACTOR will prepare the EIR project description. Organization of this information is critical, since it forms the basis for environmental evaluation under CEQA. The project description will focus on the overall boundary of the project site. Up to four graphics will be prepared based on information to be provided by the County and site photos taken by CONTRACTOR.

Our scope of work and fee estimates assumes that the project will not substantively change following County acceptance of the project description.

# TASK 3 - Notice of Preparation and Initial Study:

CONTRACTOR will prepare a draft Notice of Preparation (NOP) pursuant to the State CEQA Guidelines. The NOP will identify the timeframe, contact person, and address for submission of public comments, as well as a list of EIR topical areas included for analysis. Per the direction of the County, CONTRACTOR will circulate the Initial Study with the NOP, since it will offer more information to interested parties and clarify which issues will not be addressed further. To ready the draft Initial Study for release, CONTRACTOR will remove issue area discussions that will be addressed in detail in the EIR, and update to utilize the latest CEQA Appendix G checklist. If the County decides to use the Initial Study to prepare an Effects Found Not to be Significant section a budget amendment will be required.

CONTRACTOR will submit a draft NOP with attached Initial Study to County staff for review. CONTRACTOR will make any necessary changes to the NOP and provide an electronic copy to County staff for signature, publication, and distribution. This scope of work assumes that the County will distribute the NOP to the State Clearinghouse, Monterey County Clerk/Registrar Recorder and the County's list of local interested parties. CONTRACTOR will summarize all input gathered during the 30-day NOP review period for inclusion in the EIR introduction.

# **Optional Task: Public Scoping Meeting**

Under State CEQA Guidelines Section 15082(C) a public scoping meeting is required for project of "statewide, regional, or areawide significance pursuant Section 15206." The proposed project does not meet the criteria as a project of statewide, regional, or areawide significant as defined by Section 15206. As a result, a scoping meeting is not required under State CEQA Guidelines. However, a scoping meeting would bolster public input and transparency. As such, a scoping meeting is included as an optional task.

If desired and approved by the County, CONTRACTOR will conduct a public scoping meeting during the 30-day NOP period to introduce the community and interested agencies to the project, provide an overview of the EIR process and obtain input on the EIR scope of work. The scoping meeting will include a presentation with graphic imagery, followed by the formal recordation of input from meeting attendees. Due to COVID-era work protocols it is anticipated that this meeting will be held via a video-conferencing platform. CONTRACTOR will work with the County to pick a virtual platform (e.g., Zoom, Microsoft Teams, or WebEx) and work closely with CONTRACTOR and County Information Technology (IT) teams to organize the meeting. If the meeting is held in-person, CONTRACTOR assumes that the scoping meeting location will be arranged by the County. Either way, CONTRACTOR will prepare a PowerPoint presentation for the meeting and present during the meeting.

# **Optional Task: Peer Review of Biological Resources Assessment and Forest Management Plan**

If the County requests, CONTRACTOR can peer review the existing 2013 Biological Resources Assessment (BRA) prepared by Zander and Associates and the July 2007 Staub Forestry & Environmental Consulting Forest Management Plan (FMP) provided by the applicant to independently verify that the reports are sufficient to support CEQA analysis, and that the conclusions therein are defensible. This peer review will focus on methodology and high-level, "fatal flaw" issues, and will not be an exhaustive or detailed review of documentation or grammatical editing. We will prepare a brief memorandum summarizing the results of the peer review, providing recommended remedies, as applicable, to address any potential shortfalls.

The findings of the peer review will be summarized in a single memorandum, which will be submitted to the County digitally. No coordination with the preparers of the technical studies is assumed.

# TASK 4 - Administrative Draft EIR:

After County staff approval of the project description, CONTRACTOR will prepare an Administrative Draft EIR. The Administrative Draft EIR for the project will be prepared in accordance with the current CEQA Statutes and Guidelines. Each of the environmental issue areas included in the CEQA Environmental Checklist Form will be addressed at a level of detail sufficient to allow CONTRACTOR to make determinations of significance (please see the Technical Approach to Environmental Issues section below for an approach to environmental issue areas). The EIR will be organized such that each topical section is consecutively numbered to allow easy cross referencing of impacts and mitigation measures.

The Administrative Draft EIR will consist of the following sections:

- Executive Summary and Table of Contents. The Executive Summary section will summarize the revised project and associated environmental consequences. Impacts will be presented in tabular format to simplify review by decision-makers and the general public. The Table of Contents will provide readers with the appropriate page number where each major section of the EIR can be found, consistent with Section 15122 of the CEQA Guidelines.
- Project Description. The Project Description section will consist of the project description that was prepared in Task 2. This section will include a description of the project, focusing on project characteristics relevant to the analysis, project objectives, and required discretionary approvals. Construction details, such as duration and potential equipment, will also be summarized to inform the analysis. The project description will include textual, tabular, and graphic presentation to fully describe the project and form a basis for the environmental analysis.
- Introduction and Environmental Setting. These required introductory sections will lay the groundwork for and summarize the substantive analysis to follow. The introduction will describe the purpose and legal authority of the EIR, and provide a discussion of lead, responsible, and trustee agencies. The environmental setting will provide a general description of the existing geographic character of the project site and the site vicinity.
- Environmental Impact Analysis. This section will analyze impacts to each resource area evaluated in the EIR. For each issue area, the analysis will include four main components:
  - Setting. Description of current conditions with respect to the issue in question, including the existing regulatory environment
  - Impact Analysis. Discussion of potentially significant effects of the proposed project; impacts are typically compared to established "thresholds of significance"
  - Mitigation Measures. Methods by which significant effects can be reduced or eliminated

- Level of Significance After Mitigation. Discussion of whether or not proposed mitigation measures reduce impacts to below the adopted significance threshold
- Other CEQA-Required Discussions. This section will include discussions of other sections required by the CEQA Guidelines and will include an analysis of potential growth-inducing impacts and irreversible environmental effects. This section will also address resource areas with all less than significant impacts or no impacts.
- Cumulative Impacts. Consistent with Section 15130 of the CEQA Guidelines, cumulative impacts resulting from the project impacts combined with impacts of other projects in the area will be evaluated. Other projects in the area will be derived in consultation with the County. Mitigation measures will be provided, as applicable, to reduce significant cumulative impacts of the project.
- Alternatives. This section will be prepared in accordance with the requirements of the State CEQA Guidelines, Section 15126.6, and recent court decisions. The purpose of this section will be to promote informed decision-making and to evaluate a reasonable range of project alternatives. CONTRACTOR Consultants assumes up to three alternatives will be evaluated. This will include the CEQA- required "no project" alternative and up to two project alternatives.
- References. This section of the EIR will provide a list of references for the citations found in the body of the EIR. A copy of the reference material will be kept in the administrative record, and provided to the County completion of the Draft EIR, as outlined in Task 9.

# **TASK 5 - Second Administrative Draft EIR:**

CONTRACTOR will respond to County comments on the Administrative Draft EIR and submit a Second Administrative Draft EIR for review. This document will be submitted in Microsoft Word with revisions shown in track changes.

# TASK 6 - Public Review Draft EIR:

After County review of the Second Administrative Draft EIR, CONTRACTOR will conduct final revisions and prepare the Draft EIR for public review. Prior to publication, we will provide a clean PDF screen check document for final County review. We assume that any comments at this stage will be limited to minor typographical or formatting edits, if any. We have assumed that the County will be responsible for all public noticing and circulation of the Draft EIR to the State Clearinghouse, County Clerk, and interested parties. We further assume the County will be responsible for newspaper posting and noticing to nearby property owners. CONTRACTOR staff will assist with preparation of notices and advise the County on CEQA circulation procedures as needed. CONTRACTOR will provide 11 hard copies plus 27 CDs of the Draft EIR in digital (Adobe PDF) format.

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## TASK 7 - Responses to Comments/Administrative Final EIR:

Upon receipt of public comments on the Draft EIR, CONTRACTOR will prepare draft response to comments and an Administrative Final EIR for review by the County. This scope of work assumes that up to 10 comment letters containing comments on the content of the CEQA document will be received. This includes three lengthy (over five pages) and/or substantive letters, that can be adequately responded to in a maximum of 80 professional staff hours. These assumptions are based on our prior experience with similar EIRs and our understanding of the litigious nature of CEQA review in the county. Comment letters that solely express support or opposition to the project would not count against the 10-letter estimate. The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period. This scope of work assumes up to three rounds of expedited review by the County staff.

#### TASK 8 - Final EIR and MMRP:

Upon receipt of comments on the Administrative Final EIR, we will incorporate changes and prepare the Final EIR. This task will also include preparation of the Mitigation Monitoring and Reporting Program (MMRP), which will include a list of mitigation measures, monitoring timing, and responsibility in Microsoft Word format, for County staff to easily input into Accela.

Prior to certification of the Final EIR, and after receiving comments by County staff on the Administrative Final EIR, CONTRACTOR will deliver 18 hard copies of the Final EIR, along with 17 CDs and a digital copy (Adobe PDF) for posting to the County's website. This will be the "hearing draft" version of the EIR for use by the decision makers when they consider the project for final action.

Upon certification of the Final EIR and project approval, we will prepare a Final EIR that includes any Planning Commission- and/or Board of Supervisors-directed changes, and submit this to the County in digital form and in PDF and Microsoft Word formats. CONTRACTOR will also prepare a Notice of Determination (NOD), which we assume County staff will file with the Monterey County Clerk, including applicable filing fees.

#### **Optional Task: CEQA Findings**

If requested by the County, CONTRACTOR can prepare the CEQA findings for the project in accordance with CEQA Guidelines Section 15091. The findings will include information related to whether those significant impacts identified in the EIR will be reduced to below a level of significance by mitigation measures identified in the document. If a significant and unavoidable impact is identified in the EIR, CONTRACTOR will prepare the Statement of Overriding Considerations. CONTRACTOR will provide an administrative draft of the CEQA findings for County

staff and legal review and comment, and then incorporate comments into a final document.

# **Optional Task: Public Hearing Attendance**

As an optional task, CONTRACTOR's Principal-In-Charge and/or Project Manager can attend up to two public hearings on the project. Attendance will include oral presentations to the hearing body and graphic presentations, if desired. CONTRACTOR will attend additional hearings at a rate of \$1,500 per meeting.

# **TASK 9 - Administrative Record**

CONTRACTOR will maintain the Administrative Record for this project. CONTRACTOR will develop a work plan at the outset that instructs internal staff on the way in which the Administrative Record will be developed and maintained. As sources are referenced in each section of the report, they are logged in an index containing a hyper-linked cross-reference to the individual source files, copies of which are maintained on company servers. These include, for example, guidance documents, websites, correspondence, and technical memoranda. The citations and source files will be audited during our technical review to ensure the record is complete and comprehensive. The index and source files will be supplied on a thumb drive alongside the Draft EIR. If any citations are added during preparation of the Final EIR, the added source files will be submitted via CONTRACTOR's File Transfer Protocol (FTP) server.

# **TASK 10 - Project Management**

This task includes management and coordination through the duration of the project, including project oversight, budget and schedule management, and project accounting including billing and accounts receivable efforts. In addition, this task includes up to three virtual meetings, which would be attended by CONTRACTOR's local Project Manager or Principal-in-Charge. Additional bi-weekly check-in conference calls are assumed to occur via telephone and last approximately thirty minutes each. CONTRACTOR's Principal-in-Charge and/or technical staff will participate in check-in calls when appropriate.

# **Technical Approach to Environmental Issues**

Based on our experience with similar projects and the project area, the EIR will focus on the following issue areas. Other issues (including Agricultural and Forestry Resources, Energy, Hazards and Hazardous Materials, Mineral Resources, Population and Housing, Public Service, and Recreation) will be addressed in the revised Initial Study circulated with the NOP. Alternatively, if the County prefers not to circulate the Initial Study, these issue areas will be addressed in an Effects Found Not to be Significant section.

To the extent possible, Rincon will incorporate information from the existing technical reports prepared for the project. Rincon will additionally leverage our extensive experience in CEQA review in the county as well as the existing Initial Study for the

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project to streamline the analysis, where possible. If the analysis determines any potentially significant environmental effects may result, beyond those that were already identified in the previous Initial Study, we will notify the County immediately.

#### Aesthetics

The project site is located in a rural area immediately south of Pesante Road, approximately 0.75 mile east of U.S. Highway 101. While the site is not visible from Highway 101 due to intervening topography, future development on the site would be visible from local roadways, including Pesante Road and Hillview Terrace. Rincon will photo document the existing visual setting during a site visit and assess whether removal of 215 oak trees and development of the site with up to 26 new residences and associated roads and utilities would have a substantial adverse effect on a scenic vista, substantially damage scenic resources, or substantially degrade the existing visual character or quality of the site and its surroundings. This section will also consider the addition of nighttime lighting and daytime glare to the site. Mitigation will be identified as appropriate.

#### Air Quality

The air quality analysis will be prepared in conformance with the methodologies and significance thresholds outlined in the Monterey Bay Resources District (MBARD) CEQA Air Quality Guidelines. The analysis will include a discussion of the current air quality setting within the local airshed along with local climatic and air pollution data from local air monitoring stations. Significance criteria will be based on MBARD thresholds. Potential long-term emissions associated with the project are primarily the result of traffic generated by the proposed project. These emissions will be quantified for the proposed project using the California Emissions Estimator Model (CalEEMod) based on the trip generation rates provided in the TIA for the project. Area source emissions (e.g., those associated with natural gas consumption, landscaping, and architectural coatings) will also be quantified. Total projected long-term emissions will be compared to the MBARD's operational thresholds of significance (137 pounds per day of VOC or NOx, 82 pounds per day of PM<sub>10</sub>, 550 pounds per day of CO, and 150 pounds per day of SO<sub>x</sub>) to determine their significance. If projected emissions would exceed thresholds, measures to mitigate air quality impacts will be identified. Short-term constructionrelated emissions will be estimated based on standard regional assumptions for equipment activity and construction duration and compared to current state and federal Air Quality Standards and MBARD construction emissions thresholds of significance (82 pounds per day of PM<sub>10</sub>). Consistency with the current Air Quality Management Plan (AQMP) will be determined. This includes a comparison of population generated by the proposed project with Association of Monterev Bay Area Governments (AMBAG's) regional growth forecasts. In accordance with the latest consistency procedures, AMBAG will not be contacted to make the consistency determination. If significant impacts are identified, appropriate mitigation measures will be provided in consultation with MBARD.

#### **Biological Resources**

The 2007 BRA (Zander Associates 2007; updated 2013) described the project site as undeveloped and consisting predominantly of grasslands, coast live oak woodlands, chaparral, and coastal scrub habitats. Based on the results of the existing FMP (Staub Forestry & Environmental Consulting 2007), the proposed project would result in the removal of approximately 215 coast live oak trees. Two seasonal wetlands located on the property were originally evaluated as avoided and preserved in the proposed open space parcels. The BRA is 13 years old, with a seven-year-old update, and is outdated for the purposes of CEQA review. The BRA and update also lack any figures or mapping of vegetation communities or land cover types, and as such, Rincon cannot confirm the accuracy of the reported extent of impacts to specific vegetation communities, or the avoidance of season wetlands. Additionally, the BRA did not address all of the CEQA Appendix G checklist questions for biological resources.<sup>1</sup> Given these identified issues, Rincon recommends that we complete an updated assessment of potential impacts to biological resources, including resources that may have become protected since the most recent BRA update in 2013.

Rincon's biological resources assessment will document the current existing biological conditions, map vegetation communities and land cover types in the study area, evaluate the potential for impacts to sensitive biological resources from project development based on current site designs, and develop mitigation measures to reduce potential impacts to less than significant levels. The biological resources assessment will include a review of all readily available existing information, project plans, aerial imagery, databases (i.e. California Natural Diversity Database [CNDDB] and California Native Plant Society [CNPS] rare plant inventory) and other available literature, including the project-specific BRA (Zander 2007; updated 2013) and FMP (Staub Forestry & Environmental Consulting 2007), as well as a reconnaissance-level field survey to verify preliminary desktop mapping of vegetation communities and wildlife habitats present on the project site. Our scope does not include protocol-level botanical or wildlife surveys; however, the assessment may determine that protocol surveys would be required based on preliminary results. The analysis will address potential impacts to special status plants and wildlife, sensitive vegetation communities, and jurisdictional waters, if present, and will evaluate potential impacts, and possible mitigation for loss of oak woodland and individual oak trees in the context of the applicant prepared FMP, and the County's position on Legislative Analysis of Senate Bill (SB) 1334 (Oak Woodlands Conservation, Conversion & Environmental Review). The results of the biological resources assessment will be presented in the Biological Resources section of the EIR. The scope of work does not include preparation of sand-alone BRA Report, or formal updates to the existing BRA.

The EIR section will 1) document the existing baseline conditions for biological resources; 2) evaluate the potential for special status plants and animals to occur on the site; 3) present an impacts analysis for biological resources inclusive of sensitive vegetation communities and jurisdictional wetlands (including waters of the U.S. and waters of the State including associated riparian habitat), wildlife movement corridors

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and wildlife nurseries, local policies and existing conservation plans; and 4) propose suitable mitigation, if necessary, to reduce potential impacts.

#### **Cultural Resources**

As part of a cultural resources investigation, Rincon will conduct a California Historical Resources Information System (CHRIS) records search of the proposed project site as well as a 0.5-mile radius around the project site at the Northwest Information Center (NWIC) located at Sonoma State University. The records search will reveal the nature and extent of any cultural resources work previously conducted within the project site and adjacent vicinity. Rincon assumes NWIC direct expenses will not exceed \$1,000. Rincon will contact the California Native American Heritage Commission (NAHC) for a review of their Sacred Lands File (SLF). Rincon will prepare and mail a letter to NAHC-listed contacts received from the SLF, requesting that they notify the county about any known Native American cultural resources within or near to the project site. This task does not constitute formal consultation under Assembly Bill (AB) 52; it is a standard best management practice intended to gather information to inform the cultural resources analysis.

Monterey County Geographic Information System indicates that the subject property has a low archaeological sensitivity; however, AB 52 consultation previously conducted for the project has identified the area as sensitive for Native American resources. Further, the area has been used historically for ranching activities and may contain post-contact cultural resources. The project site contains oak woodland and a seasonal drainage that would have provided resources attractive to human habitation. Based on the project site setting, AB 52 consultation, and Rincon's understanding of the region, the project site may contain cultural resources. Therefore, Rincon will conduct a targeted cultural resources site visit to examine the areas most likely to contain cultural resources. For the purposes of this scope and cost, Rincon assumes no cultural resources will be identified during the study. Upon completion of the survey and analysis of results, Rincon will prepare a brief cultural resources memorandum discussing the results of the records search, Native American scoping, and field survey. The results of this memorandum will be used to inform the CEQA analysis.

#### **Geology and Soils**

Portions of the project site have slopes exceeding 30 percent, and the site is in an area subject to substantial ground-shaking hazards. According to the Preliminary Geologic & Soil Engineering Report and Percolation Testing (Geotechnical Report; Landset Engineers 2006), the proposed residential development is feasible from a geologic and soil engineering standpoint provided that recommendations included in the report are incorporated into the project design. This Geotechnical Report will be incorporated into the EIR section. The corresponding discussion will identify potential impacts associated with slopes, seismic risk, and soil-related hazards (e.g., liquefaction, shrink-swell, erosion, etc.). Per County protocol, recommendations contained in the Geotechnical

Report will be identified as conditions of approval for the project, rather than as mitigation.

The geology section will also discuss the suitability of on-site soils for installation of the proposed septic systems, based in the Geotechnical Report and Supplemental Percolation Testing report (Landset Engineers September 2007).

Lastly, the EIR will discuss the paleontological sensitivity of geologic units within the project site, assess potential for impacts to paleontological resources from development of the proposed project, and recommend mitigation measures to avoid or mitigate impacts to scientifically significant paleontological resources.

#### **Greenhouse Gas Emissions**

The EIR will evaluate impacts related to greenhouse gases (GHGs) and climate change. Using CalEEMod, GHG emission for the proposed project will be quantified. The EIR will summarize the proposed project's potential contribution to cumulative impacts related to climate change. The impact analysis will include an overview of the types and sources of GHGs, and the potential environmental effects of GHGs and climate change. An overview of the current regulatory framework regarding GHGs & climate change, including AB 32, SB 97, and SB 375, as well as adopted amendments to the State CEQA Guidelines, will also be described.

MBARD has not formally adopted thresholds to evaluate GHG emissions. In the absence of local guidance, Rincon will consult with MBARD staff during the preparation of this section to verify the appropriate thresholds. In our experience, MBARD encourages lead agencies to consider a variety of metrics for evaluating GHG emissions and related mitigation measures as they best apply to the specific project. MBARD has in the past recommended using the adopted San Luis Obispo Air Pollution Control District (SLOAPCD) quantitative threshold for land use projects, which may be appropriate here given prior County precedent. To account for the recent court case, *Golden Door Properties v. County of San Diego*, Rincon will provide a summary justifying the use of this threshold. Finally, using the results from the CalEEMod run, Rincon will prepare a GHG section that focuses on the impacts of the proposed project on climate change.

#### Hydrology and Water Quality

Based on Rincon's local knowledge of the hydrology and water quality issues across the Monterey Peninsula, Rincon estimates that this section of the EIR is likely to be one of the two most controversial issues of the project (alongside Biological Resources). This section of the EIR will be based on a Preliminary Drainage Study prepared for the project by LandSet Engineers (January 2007), the Hydrogeologic Study prepared for the project by Aaron Bierman (February 2020), as well as Rincon's extensive expertise and local knowledge in the area of water resources.

Water to the project would be provided by the PSMCSD, which has provided a will-serve letter for the project. Specifically, the property is located in the NORMCO water service

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area of PSMCSD. The applicant proposes expansion of and connection to the NORMCO water system which is owned and operated by PSMCSD with oversight from the State Water Resources Control Board and Monterey County Environmental Health Department. According to the RFP, it is anticipated that adequate water quality can and will be provided for project from the NORMCO water system service area. The well that is proposed to serve the subdivision is located in the Langley Subbasin which is part of the Salinas Valley Groundwater Basin. The Hydrogeologic Study (2020) concludes that there is long-term water supply to serve the project. Rincon will review the Hydrogeologic Study, as well as reviewing existing information available from PSMCSD to determine if project water demand would substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or lowering of the groundwater table. If a potentially significant environmental impact is identified, Rincon will work with the County to identify applicable mitigation to minimize project impacts to the greatest extent feasible.

The EIR will also describe the existing flooding, drainage and stormwater collection systems within the immediate project area. The analysis will describe regulations regarding water quality, including

National Pollutant Discharge Elimination System (NPDES) requirements. Potential impacts related to runoff volumes, drainage patterns, and water quality will be determined, with a qualitative discussion of impacts to water resources. Recommended mitigation measures to contain projected stormwater flows, protect long-term water quality, and promote water conservation will be provided as appropriate.

This scope of work does not include preparation of long-term water supply planning projections, but rather a review and summation of existing available data provided in the Hydrogeologic Study. If this data review and analysis determines that additional, site- or project-specific data is needed we will alert the County immediately and consult on how best to proceed.

#### Land Use and Planning

The land use analysis will consider whether the proposed project would physically divide an established community; conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect; or conflict with applicable habitat conservation plan or natural community conservation plan. According to County policy, because the project application was deemed complete in 2007 (prior to adoption of the 2010 General Plan), policies contained in the 1982 Monterey County General Plan apply to this project. The policy consistency analysis in the EIR will, therefore, focus on relevant 1982 policies adopted for the purpose of avoiding or mitigating an environmental effect.

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#### Noise

The noise analysis will evaluate the project's temporary noise and vibration impacts associated with project construction, long-term noise impacts related to project traffic, and potential exposure of residential units to noise. Rincon will conduct up to two 15minute daytime sound level measurements in the field using an ANSI Type II sound level meter. These noise measurements will be taken during the aesthetics analysis site visit. The analysis of temporary noise and vibration impacts associated with construction will be based on typical construction noise and vibration levels and standard noise and vibration attenuation factors. Noise and vibration levels associated with construction activities will be quantified and projected at the nearest sensitive receptors and compared to applicable County standards. Traffic noise will be forecasted and will be added to the existing and baseline cumulative traffic volumes. From this, the incremental noise level increases will be calculated and compared to Federal Transit Administration (FTA) thresholds developed based on FTA criteria. Ambient noise on-site will be compared to the most recent County standards to determine whether or not the proposed residential units would be exposed to noise exceeding acceptable levels. Mitigation requirements will be identified for noise impacted areas. Noise reduction measures may involve various methods to address temporary construction impacts and/or techniques to minimized exposure of off-site receptors and/or site residents to excessive noise, including building techniques to reduce interior noise, orientation of outdoor activity areas, or the use of walls, greenbelts, and/or setbacks.

#### Transportation

Hexagon will update the TIA originally prepared by Mott MacDonald (August 2016). Hexagon will include an analysis of vehicle miles traveled (VMT). The VMT analysis will rely on the AMBAG Travel Demand Model to estimate the total Countywide VMT without and with the project under one horizon year selected by the County. In addition, VMT related to the project will be compared to local and regional averages. Based on the result of the VMT analysis, the updated TIA will identify project impacts. If significant impacts are identified, mitigation measures will be recommended, as appropriate, that could avoid or reduce a significant impact including implementation of Travel Demand Management measures or in-lieu fees to fund regional VMT-reduction programs. The VMT analysis will be provided digitally in a letter style report. Refer to Attachment A for Hexagon's full proposed Scope of Services.

#### **Tribal Cultural Resources**

We understand that the County has completed AB 52 consultation with the Ohlone/Costanoan-Esselen Nation (OCEN). OCEN identified the area as sensitive and requested mitigation measures be incorporated. Rincon will summarize the AB 52 efforts undertaken by the County and will include mitigation consistent with OCEN's request in the EIR.

Rincon assumes that the County has completed their AB 52 obligations for this project and does not require assistance with any additional consultation. If the County requires such assistance, Rincon can provide it at additional scope and cost.

#### Utilities and Service Systems

The proposed project would result in an increase in demand for public services and utilities. According to the RFP, water to the project would be provided by the PSMCSD and wastewater service would be provided by individual septic systems on each lot. As identified above, under Hydrology and Water Quality, the project may result in potential impacts due to a lack of long-term sustainable water supply. As a result, this section will rely on the Hydrogeologic Study (2020) to evaluate the water demands of the proposed project uses. Project water demands and water supply will be compared for three hydrologic conditions: (1) normal water year, (2) single dry year, and (3) severe drought conditions (i.e., three dry years). If significant impacts are identified, mitigation measures will be developed to avoid or minimize project impacts to the greatest extent feasible. In addition, Rincon will use information provided in the 1982 Monterey County General Plan and by County Environmental Health staff, as well as landfill information provided by Department of Resources Recycling and Recovery to quantify and describe the impacts of the project on water and wastewater systems and infrastructure, storm water, and solid waste landfills.

#### Wildfire

According to the Monterey County Geographic Information System, the project is located in State Responsibility Area and is designated as a High Wildland Fire Hazard Area. Based on this designation, the EIR will assess the potential for exposure of future on-site residents to loss, injury, or death as a result of wildland fire. If significant impacts are identified, mitigation measures will be developed to avoid or minimize project impacts to the greatest extent feasible.

The project includes a secondary access road for emergencies, and the North County Fire District indicated in October 2015 that this secondary access would satisfy the needs of the Fire District. This analysis will include consultation with the North County Fire District to verify the continued applicability of this review. The EIR will examine these issues and provide appropriate mitigation.

#### SCHEDULE

CONTRACTOR proposes a 39-week (or nine month) schedule for preparation of the EIR, as presented in the table below. Delays in receiving requested information or responses by others may result delays in the overall schedule.

Task	Timing	Total Time Elapsed
Notice to Proceed	-	
Project Kickoff	1 week after Notice to Proceed	1 week

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Task	Timing	Total Time Elapsed
Project Description	3 weeks	4 weeks
Optional: Public Scoping Meeting	1 day	During 30-day review period
Administrative Draft EIR	12 weeks	16 weeks
County Review	3 weeks	19 weeks
Second Administrative Draft EIR	3 weeks	22 weeks
County Review	1 week	23 weeks
Public Review Draft EIR	2 weeks	25 weeks
Public Review	45 days	31 weeks
Responses to Comments/ Administrative Final EIR	4 weeks	35 weeks
County Review	2 weeks	37 weeks
Final EIR and MMRP	2 weeks	39 weeks

#### ASSUMPTIONS

- 1. All referenced technical reports provided by the County (other than the BRA) will not need verification and are deemed accurate, timely, and complete.
- 2. The Administrative Draft and Second Administrative Draft EIR will be submitted to the County in digital format only. Comments will be provided to CONTRACTOR in a single, consolidated version.
- 3. The EIR will not be reviewed extensively by County Counsel.
- 4. Appendices to the Draft EIR will not be provided in print or hard copy format, but instead attached as CDs to the back covers of print copies of the Public Draft EIR.
- 5. Responding to up to 10 comment letters received on the Public Draft EIR will require a maximum of 80 hours of professional CONTRACTOR staff time (excluding letters solely expressing support or opposition). These assumptions are based on our prior experience with similar EIRs and our understanding of the litigious nature of CEQA review in the County. The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period.
- 6. CONTRACTOR will provide up to 11 hard copies and 27 CDs of the Draft EIR and 18 hard copies and 17 CDs of the Final EIR.
- 7. The County will manage all required noticing and filing fee payments.
- 8. CONTRACTOR staff will not assist in staff report preparation.

All written reports required under this Agreement must be delivered in accordance with the above Task schedule to the following individual:

Craig Spencer, Planning Services Manager County of Monterey Housing and Community Development 1441 Schilling Place, 2<sup>nd</sup> Floor Salinas, California 93901-4527 Email: <u>SpencerC@co.monterey.ca.us</u>

#### **B.** PAYMENT PROVISIONS

#### **B.1 COMPENSATION/ PAYMENT**

County shall pay an amount not to exceed \$148,858.30 for the performance of <u>all things</u> <u>necessary</u> for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

Professional, Technical and Support Personnel	2021 Hourly Rate	2022 Hourly Rate	2023 Hourly Rate	2024 Hourly Rate	2025 Hourly Rate
Principal II	\$247	\$254	\$262	\$270	\$278
Director II	\$247	\$254	\$262	\$270	\$278
Principal I	\$227	\$234	\$241	\$248	\$255
Director I	\$227	\$234	\$241	\$248	\$255
Senior Supervisor II	\$211	\$217	\$224	\$231	\$237
Supervisor I	\$201	\$207	\$213	\$220	\$226
Senior Professional II	\$180	\$185	\$191	\$197	\$203
Senior Professional I	\$165	\$170	\$175	\$180	\$186
Professional IV	\$149	\$153	\$158	\$163	\$168
Professional III	\$134	\$138	\$142	\$146	\$151
Professional II	\$118	\$122	\$125	\$129	\$133
Professional I	\$108	\$111	\$115	\$118	\$122
Associate III	\$98	\$101	\$104	\$107	\$110
Associate II	\$93	\$96	\$99	\$102	\$105
Associate I	\$84	\$87	\$89	\$92	\$95
Project Assistant	\$77	\$79	\$82	\$84	\$87
Senior GIS Specialist	\$144	\$148	\$153	\$157	\$162
GIS/CADD Specialist II	\$129	\$133	\$137	\$141	\$145

Professional, Technical and Support Personnel	2021 Hourly Rate	2022 Hourly Rate	2023 Hourly Rate	2024 Hourly Rate	2025 Hourly Rate
GIS/CADD Specialist I	\$115	\$118	\$122	\$126	\$129
Technical Editor	\$115	\$118	\$122	\$126	\$129
Production Specialist	\$91	\$94	\$97	\$99	\$102

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 CONTRACTORS BILLING PROCEDURES**

NOTE: Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.

County may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

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.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

# TREAM

#### RINCON CONSULTANTS, INC.

Charolais Ranch Subdivision Project

**CEQA** Services Cost Estimate

		Rincont	oborCicssif	ication 6	Mecipal I	serior Professional I	Profession/call (V	helenioral III	reteacratii	Production Speciality	ois/CAD0 Specialist	Ciencol
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Task 1: Project Kickoff		51.802	\$33	10	4		6					
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Task 2: Project Description	and the second second	\$3.027		23	2		6	6		1	4	
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Task 3: Notice of Preparation and Initial Study		\$3.719		27	4	-	4		18	2		
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Task 4: Administrative Draft EIR Executive Summary Introduction and Environmental Setting Environmental Impact Analysis Aer Quality Biological Resources Cultural Resources Cultural Resources Geology and Saits Greenhouse Gas Entistions Hydrology and Water Quality Noise Lond Use and Planning Transportation Trabaportation Trabaportation Trabaportation		61.797 51.348 51.503 56.296 52.860 53.609 52.870 52.870 52.870 52.380 52.380 52.380 52.380 52.380 52.380 52.380 52.380	533 5128 51,556 510 513 800	11 8 19 21 59 50 18 21 18 21 18 19 13 18 19	******		8 6 32 14	16 16 16 14 14 14 14	34 16 40 10	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1 6 7 1 1	
Wildfire Other CEQA Required Discussions		\$2,397 \$2,227		27	1	1		14			. B	
Alternatives (4)		Se and		29	2	4	20					
References and List of Preparets		\$1.114		6	2	4					- 2	
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Task 5: Second Administrative Draft EIR		56.258		20	8	6	10	10	(	. 4	2	1
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Task 6: Public Review Draft EIR		\$4,860	\$2,055	34	4	6	6	10		6	- Alberton	Constant of the local data
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Task 7: Responses to Comments/Administrative Fi		\$12.496		BD	10	20	30		8	2	2	
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Task 8: Final EIR and MMRP	-	54.520	\$2,055	80	4	4	£	- 14		1		
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Task 9: Administrative Record		\$1,960	\$20	12	4			-				
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Task 10: Project Management and Coordination	sak Subtotol	515,425		91	25		#4					12
	SUBTOTAL COST		\$ 20,475	726	524,249	\$112,110	S STRATTS-	5 25 258	512.508	\$ 2,457	5 1,789	

#### **Direct Cost Detail**

Vehicle Costs	S	268
Sound Level Metering Field Equipment	5	100
Standard Field Equipment Package	S	95
EIR Production	5	4,350
Reproduction CDs	5	560
USB Flash Drive	S	20
Hotel/Per Diem	S	236
NWIC Records Search (Cultural)	5	1,150
Subconsultant, Fee: Hexagon (Transportation)	5	13,800
SUBTOTAL ADDITIONAL COST		20.670

#### Summary

Professional Fees Subtotal	_	\$108,763
Direct Costs Subtotal	1	\$20,679
TOTAL PROJECT BUDGET		129,442
Optional Tasks		
Public Scoping Meeting		\$2,500
Peer Review of BRA and FMP		\$8,050
CEQA Findings		\$5,000
Public Hearing (\$1,500 per Hearing)		\$3,000
TOTAL OPTIONAL TASK BUDGET	\$	18,550

Professional Services - The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, as jong as the total contract price is not exceeded.

### **Invoice Coversheet**

Rincon Consultants, Inc. Charolais Ranch Subdivision Project EIR

Date:	
Invoice No.	

Agreement Term: Agreement Amount:

This Invoi	ce:	
Task 1	\$1,802.00	KICKOFF
Task 2	\$3,027.00	DESCRIPTION
Task 3	\$3,719.00	NOTICE OF PREPARATION AND INITIAL STUDY
Task 4		ADMINISTRATIVE DRAFT EIR
	\$1,737.00	Executive Summary
	\$1,348.00	Introduction and Environmental Setting
		Environmental Impact Analysis
	\$2,503.00	Aesthetics
	\$3,019.00	Air Quality
	\$8,429.00	Biological Resources
	\$6,286.00	Cultural Resources
	\$2,660.00	Geology and Soils
	\$3,019.00	Greenhouse Gas Emissions
	\$2,870.00	Hydrology and Water Quality
	\$3,019.00	Noise
	\$2,586.00	Land Use Planning
	\$16,589.00	Transportation
	\$1,737.00	Tribal Cultural Resources
	\$2,488.00	Utilities
	\$2,397.00	Wildfire
	\$2,227.00	Other CEQA-Required Discussions
	\$4,448.00	Alternatives (4)
	\$1,114.00	References and List of Preparers
Task 5	\$6,258.00	Second Administrative Draft EIR
Task 6	\$4,860.00	Public Review Draft EIR
Task 7	\$12,496.00	Responses to Comments/Administrative Final EIR
Task 8	\$4,520.00	Final EIR and MMRP
Task 9	\$1,980.00	Administrative Record
Task 10	\$15,425.00	Project Management and Coordination
		Direct Cost Summary
	\$268.00	Vehicle Costs
	\$5,010.00	Printing and Reproduction Costs
	\$5,278.00	GRAND TOTAL:
		REMAINING BALANCE:

Approved as to Work/Payment:

Craig Spencer, Planning Services Manager

Date

# **EXHIBIT B – REVISION TO SECTION 8, INDEMNIFICATION, OF AGREEMENT**

#### 8. INDEMNIFICATION.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

#### 8.02 Indemnification for Design Professional Services Claims:

CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

#### 8.03 Indemnification for All Other Claims or Loss:

For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY.

# Attachment B

# This page intentionally left blank.

# FUNDING AGREEMENT FOR THE CHAROLAIS RANCH SUBDIVISION PROJECT ENVIRONMENTAL IMPACT REPORT

**THIS FUNDING AGREEMENT**, hereinafter, "AGREEMENT", is made and entered by and between the County of Monterey, a political subdivision of the State of California, hereinafter, "County", and The Don Chapin Company, Inc., hereinafter, "PROJECT APPLICANT" (collectively, the "Parties") and effective as of the last date opposite the respective signatures below and with reference to the following facts and circumstances:

#### RECITALS

A. PROJECT APPLICANT has applied to County for approval of development permits for the Charolais Ranch Subdivision Project. The property is approximately a 130.8-acre parcel to be divided into twenty-six (26) residential lots ranging in size from approximately one and one-half (1.5) to three and one-half (3.5) acres and three (3) separate open space areas totaling 73.23 acres. The property fronts on and is south of Pesante Road, (Assessor's Parcel Number 125-051-012-00), east of Prunedale, referred to herein as "PROJECT." Additional work has been identified to process the PROJECT application. The property is located in the North County Area Plan, referred to herein as "PROJECT."

B. Due to the magnitude and complexity of the PROJECT, the Parties have agreed that it is necessary and desirable that County engage Rincon Consultants, Inc., hereinafter, "CONTRACTOR," to provide assistance with processing the application for the PROJECT and perform related work. CONTRACTOR shall perform the Scope of Work specified in the Professional Services Agreement, hereinafter, "PSA," between County and CONTRACTOR, attached to this AGREEMENT as Exhibit "1," and incorporated herein by reference. County shall manage the PROJECT work performed by CONTRACTOR.

C. The Parties hereby agree that County shall engage CONTRACTOR to provide the services set forth in Exhibit "1" of this AGREEMENT.

D. A fundamental premise of this AGREEMENT is that nothing herein is to be construed as a representation, promise, or commitment on the part of County to give special treatment to, or exercise its discretion favorably for, the PROJECT in exchange for PROJECT APPLICANT's obligation to cover County's cost of retaining CONTRACTOR and providing County staff to work on the PROJECT.

E. The subject matter of this AGREEMENT is PROJECT APPLICANT's funding of the CONTRACTOR's services on the PROJECT. This AGREEMENT also covers the County fee for contract administration.

F. The County department costs associated with processing the application for the PROJECT, other than contract administration, will be funded through separate land use application fees to be paid by the PROJECT APPLICANT pursuant to the Monterey County Page 1 of 9

Land Use Fee Schedule, attached to this AGREEMENT as "Exhibit 2," and incorporated herein by reference. These land use application fees are separate from and in addition to the funding provided by the PROJECT APPLICANT pursuant to this AGREEMENT. Land use application fees will for the PROJECT will be as a Tier 7 (Deposit) fee pursuant to Exhibit 2.

G. The Parties make this AGREEMENT with full knowledge of the requirements of state and local law, including, but not limited to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter, "CEQA") and the State CEQA Guidelines (California Code of Regulations Title 14, Section 15000 et seq., hereinafter, "Guidelines") and the Monterey County Code.

## NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

1. <u>Deposits to Fund PSA and County Fee for Contract Administration</u>. PROJECT APPLICANT shall deposit an amount equal to the CONTRACTOR's Base Budget, excluding the optional task, and the County's Contract Administration Fee. This amount totals \$132,866.00 and includes:

CONTRACTOR'S Base Budget (excluding optional task)	\$129,442.00
County Contract Administration Fee (non-refundable)	\$3,424.00
	\$132,866.00

PROJECT APPLICANT shall deposit a total amount of \$132,866.00 with County Planning Department upon approval of this AGREEMENT by the County of Monterey Board of Supervisors acting on behalf of the County, currently scheduled for February 23, 2021.

PROJECT APPLICANT's deposit of \$132,866.00 with County shall be a condition precedent to County's obligation under this AGREEMENT.

2. <u>Fifteen Percent (15%) Project Contingency</u>. An additional fifteen percent to CONTRACTOR's Base Budget shall be included in the AGREEMENT between County and CONTRACTOR to cover contingencies. This 15% Project Contingency totals \$19,416.30 and is subject to the procedures set forth in this AGREEMENT.

3. <u>Maximum Budget Under AGREEMENT</u>. The maximum amount which may be charged to PROJECT APPLICANT under this AGREEMENT is \$170,832.30.

CONTRACTOR's Base Budget (excluding optional task):	\$ 129,442.00
CONTRACTOR's Base Budget (optional task):	18,550.00
County Contract Administration Fee (non-refundable):	3,424.00
Project Contingency:	<u>19,416.30</u>
Maximum Charge Under AGREEMENT:	<u>\$170,832.30</u>

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4. Within thirty (30) days after the end of each quarter, County shall provide quarterly progress reports to the PROJECT APPLICANT showing CONTRACTOR's charges from the prior quarter associated with completion of task(s) as specified in "Exhibit A" of the PSA (Scope of Services/Payment Provisions for the PROJECT). Any Base Budget funds remaining at completion of CONTRACTOR's services shall be returned to the PROJECT APPLICANT.

5. Engagement of CONTRACTOR. This AGREEMENT is based on County engaging CONTRACTOR in accordance with the PSA between County and CONTRACTOR, attached hereto and incorporated by this reference as Exhibit "1." CONTRACTOR shall be responsible only to County, and nothing in this AGREEMENT imposes any obligation on County or CONTRACTOR to PROJECT APPLICANT other than to devote the time and attention to assisting with the processing of the PROJECT. County shall provide direction and guidance to the CONTRACTOR. <u>CONTRACTOR's contact(s) with PROJECT APPLICANT shall only be through County. PROJECT APPLICANT, its agents, employees, consultants, representatives or partners shall not contact CONTRACTOR directly in any manner unless at a public hearing, meeting, or workshop for the PROJECT.</u>

6. <u>Payments to CONTRACTOR and County.</u>

# a. <u>CONTRACTOR</u>

CONTRACTOR's invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT in the amount of \$129,442.00.

CONTRACTOR'S invoices for the optional task(s) shall be paid from Base Budget funds in the amount of \$18,550.00. Funding for the optional task(s) will be deposited by the PROJECT APPLICANT when CONTRACTOR requests approval from the County and receives a notice to proceed to complete the optional task.

Should this AGREEMENT be terminated prior to February 23, 2026, any unearned balance of the Base Budget deposited by PROJECT APPLICANT to fund the PSA's Base Budget amount shall be returned to PROJECT APPLICANT within sixty (60) days of receipt of notice of termination by County.

## b. <u>County Contract Administration Fee</u>

The County Contract Administration Fee, in an amount not to exceed \$3,424.00, shall be paid by PROJECT APPLICANT in accordance with this Agreement. County Contract Administration Fee shall be non-refundable.

The County Contract Administration Fee shall apply to this AGREEMENT (flat fee). This covers County project management and contract administration to be distributed to the following County departments upon execution of this AGREEMENT.

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#### c. <u>Project Contingency</u>

An additional fifteen percent (15%) of CONTRACTOR's Base Budget, in an amount not to exceed \$19,416.30, covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of both County and PROJECT APPLICANT. Within five (5) working days of receipt of a request from County, PROJECT APPLICANT shall approve or disapprove the Request for Transfer from Project Contingency and, if approved, at the same time submit a check to the County for the amount requested.

If PROJECT APPLICANT takes more than five (5) working days to respond to a Request for Transfer from Project Contingency, additional costs may accrue to CONTRACTOR, which may result in another Request for Transfer from Project Contingency.

#### d. Land Use Application Fees

The PROJECT APPLICANT agrees that PROJECT APPLICANT will separately pay land use application fees to cover all County staff costs associated with the PROJECT in accordance with the current County of Monterey Land Use Fee Schedule. The fee schedule applicable to the PROJECT is dated August 20, 2005, and is attached to this AGREEMENT as "Exhibit 2." PROJECT APPLICANT agrees to pay any remaining amounts due and owing for the required deposit upon approval of this AGREEMENT by the County of Monterey Board of Supervisors acting on behalf of the County, currently scheduled for <u>February 23, 2021</u>.

7. <u>No Promise or Representation</u>. The Parties agree that nothing in AGREEMENT is to be construed as a representation, promise, or commitment on the part of County to give special treatment to, or exercise its discretion favorably for the PROJECT, it being understood that PROJECT APPLICANT's funding obligation under AGREEMENT is undertaken without regard to County's actions regarding the PROJECT.

8. <u>Term</u>. AGREEMENT shall become effective February 24, 2021, and continue through February 23, 2026, unless terminated pursuant to Paragraph 9 or amended pursuant to Paragraph 13 of AGREEMENT.

9. <u>Termination</u>. AGREEMENT shall terminate on February 23, 2026, but may be terminated earlier by PROJECT APPLICANT or County, by giving thirty (30) days' written notice to the other. Upon such termination, PROJECT APPLICANT shall immediately pay any outstanding invoices, as well as pay for any work performed by CONTRACTOR through effective date of termination.

10. <u>Entire Agreement</u>. AGREEMENT and its attachments constitute the entire agreement between the Parties respecting the matters set forth herein. The Parties each represent

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that neither has relied on any promise, inducement, representation, or other statement made in connection with AGREEMENT that is not expressly contained herein.

11. <u>Negotiated Agreement</u>. It is agreed and understood by the Parties that AGREEMENT has been arrived at through negotiations and that neither is deemed the party which prepared AGREEMENT within the meaning of Civil Code Section 1654.

12. <u>Assignment</u>. Neither County nor PROJECT APPLICANT shall have the right to assign its respective rights and obligations hereunder without the written consent of the other party. This AGREEMENT shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

13. <u>Amendment</u>. This AGREEMENT may be amended, modified or supplemented only in writing by both the Parties.

14. <u>Contracting Officer</u>. The contracting officer of County, and the only entity authorized by law to make or amend AGREEMENT on behalf of County, is the County of Monterey Board of Supervisors or a County employee whom they have specifically authorized.

15. <u>Waiver</u>. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term contained in this AGREEMENT shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in any other instance or a waiver of any other condition or breach of any other term.

16. <u>Governing Law</u>. AGREEMENT shall be construed, interpreted and applied in accordance with the laws of the State of California applicable to commercial contracts entered into and to be performed wholly in California.

17. <u>Construction</u>. The language in all parts of AGREEMENT shall be construed, in all cases, according to its fair meaning. The Parties acknowledge that each party has reviewed AGREEMENT and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of AGREEMENT.

18. <u>Conflict with Professional Services Agreement between CONTRACTOR and</u> <u>County</u>. In the event of a conflict between the provisions of AGREEMENT and the PSA between County and CONTRACTOR, the provisions of AGREEMENT shall govern.

19. <u>Relationship of Parties</u>. The Parties agree that this AGREEMENT establishes only a funding arrangement between the Parties, and that the parties are not joint venturers or partners.

20. <u>Indemnification</u>. PROJECT APPLICANT agrees to defend, indemnify and hold County harmless in any action brought by any third party in which the authority of the County to enter into AGREEMENT or the validity of AGREEMENT is challenged.

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21. <u>Counterparts.</u> 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.

22. <u>Notices</u>. Notice to the Parties in connection with AGREEMENT shall be given personally or by regular mail addressed as follows:

TO COUNTY:	Craig Spencer, Planning Services Manager County of Monterey Housing and Community Development 1441 Schilling Place, South 2 <sup>nd</sup> Floor Salinas, California 93901-4527
TO PROJECT APPLICANT:	The Don Chapin Company, Inc. 560 Crazy Horse Canyon Road Salinas, California 93907-8434 WITH A COPY TO:
TO PROJECT APPLICANT'S REPRESENTATIVES:	Derric G. Oliver, Attorney John S. Bridges, Attorney Fenton & Keller P. O. Box 791 Monterey, California 93942-0791

Notice shall be deemed effective at the time of personal delivery or seventy-two (72) hours after mailing.

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IN WITNESS WHEREOF, the Parties have executed this AGREEMENT as of the day and year written below.

<b>COUNTY OF MONTEREY</b>		<b>PROJECT APPLICANT*</b>
By: Mike Novo, AICP Housing and Community Development Interim Director	By:	Dow Chapin (Signature of Chair, President or Vice President)
Date:	Its:	President
		(Print Name and Title)
Approved as to Form	Date:	2/11/2021
Office of the County Counsel-Risk Manager Leslie J. Girard, County Counsel-Risk Manager		
By: By: Brian Briggs 2926AA5CB79F475 Brian Briggs Deputy County Counsel	By:	N/A (Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)
Date: 2/24/2021	Its:	N/A
		(Print Name and Title)
Approved as to Fiscal Provisions	Date:	N/A
By: Gary Giboney		
Chief Deputy Auditor-Controller		
Date: 2/24/2021		
Approved as to Indemnity and Insurance Provisions Office of the County Counsel-Risk Manager		
By:		
Leslie J. Girard		

County Counsel-Risk Manager

Date:

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

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# **EXHIBIT 1**

# PROFESSIONAL SERVICES AGREEMENT BETWEEN RINCON CONSULTANTS, INC. AND THE COUNTY OF MONTEREY TO PROVIDE ENVIRONMENTAL IMPACT REPORT (EIR)

# <u>COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES</u> <u>WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS</u> (MORE THAN \$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:

Rincon Consultants, 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 preparation of an Environmental Impact Report (EIR) for the Charolais Ranch Subdivision Project.

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 \$148,858.30

3. TERM OF AGREEMENT. The term of this Agreement is from February 24, 2021 to February 23, 2026, 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 Indemnification Replacement

#### 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.

\*Approved by County Board of Supervisors on \_\_\_\_

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.

Contractors' Initials \_\_\_\_\_/\_\_\_\_ See Exhibit B.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

8.02 <u>Indemnification for Design Professional Services Claims:</u> <u>Contractors' Initials</u> <u>Date</u> See Exhibit B. CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

8.03 Indemnification for All Other Claims or Loss: Contractors' Initials \_\_\_\_\_/\_\_\_\_ See Exhibit B.

For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall-indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active-negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

#### 9.0 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 <u>not</u> receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such, insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

#### 9.02 <u>Qualifying Insurers:</u>

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 <u>Insurance Coverage Requirements:</u> 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:

<u>Commercial general liability insurance</u>, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform 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.

☐ 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 \$1,000,000 per occurrence.

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.

□ Modification (Justification attached; subject to approval).

<u>Professional liability insurance</u>, 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.

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.

<u>Commercial general liability and automobile liability policies shall provide an endorsement</u> 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

PSA over \$100,000 For Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08

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 <u>Confidentiality</u>. 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 <u>County Records.</u> 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 <u>Maintenance of Records.</u> 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 <u>Access to and Audit of Records.</u> 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 <u>Royalties and Inventions.</u> 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
Shandy Carroll, Management Analyst III	Megan Jones, Prine
Name and Title	N
Housing and Community Development 1441 Schilling Place, 2nd Floor	Rincon Consultants, Ir 437 Figueroa Street, S
Salinas, CA 93901	Monterey, CA 93940
Address	
(831) 784-5643   194-HCD-Contracts@co.monterey.ca.us	(831) 920-5424
Phone	1

#### FOR CONTRACTOR:

1 Jones, Principal

Name and Title Consultants, Inc. gueroa Street, Suite 203

Address

Phone

#### 15. MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest.</u> 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 <u>Amendment</u>. 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 <u>Compliance with Applicable Law.</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>. 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 <u>Governing Law.</u> This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 <u>Non-exclusive Agreement</u>. 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 <u>Construction of Agreement.</u> 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 <u>Counterparts.</u> 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 <u>Authority.</u> 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 <u>Integration.</u> 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 <u>Interpretation of Conflicting Provisions.</u> 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.

This space is left blank, intentionally.

PSA over \$100,000 For Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08

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

<b>COUNTY OF MONTEREY</b>	CONTRACTOR
By:	Dingon Consultanta Ing
Purchasing Officer Date:	Rincon Consultants, Inc. Contractor's Business Name*
By:	
Department Head (if applicable) Date:	By: (Signature of Chair, President, or Vice-President)*
By:	
Board of Supervisors (if applicable) Date:	Name and Title Date:
Approved as to Form <sup>1</sup>	
Ву:	
County Counsel Date:	By: (Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*
Approved as to Fiscal Provisions <sup>2</sup>	Name and Title Date:
By: Auditor/Controller	
Date:	
Approved as to Liability Provisions <sup>3</sup>	
By:	
Risk Management Date:	

County Board of Supervisors' Agreement Number: \_\_\_\_\_

\*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 for all Professional Service Agreements over \$100,000

<sup>2</sup>Approval by Auditor/Controller is required for all Professional Service Agreements

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

# To Agreement by and between County of Monterey, hereinafter referred to as "County" AND Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

#### A. SCOPE OF SERVICES

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

#### TASK 1 - Project Kickoff:

CONTRACTOR will coordinate with County staff to confirm study objectives during a kickoff meeting. Due to COVID-era work protocols it is anticipated that this meeting will be held via a video-conferencing platform. This meeting will allow the County and CONTRACTOR an opportunity to clarify the project description and the technical approach to environmental evaluation. We can also address any community concerns regarding the project that have surfaced to date. Prior to this meeting, CONTRACTOR will identify key information and documents that will be needed to complete the analysis. We will provide meeting minutes highlighting action items and next steps.

#### TASK 2 - Project Description:

Working with the County's Project Manager, CONTRACTOR will prepare the EIR project description. Organization of this information is critical, since it forms the basis for environmental evaluation under CEQA. The project description will focus on the overall boundary of the project site. Up to four graphics will be prepared based on information to be provided by the County and site photos taken by CONTRACTOR.

Our scope of work and fee estimates assumes that the project will not substantively change following County acceptance of the project description.

# TASK 3 - Notice of Preparation and Initial Study:

CONTRACTOR will prepare a draft Notice of Preparation (NOP) pursuant to the State CEQA Guidelines. The NOP will identify the timeframe, contact person, and address for submission of public comments, as well as a list of EIR topical areas included for analysis. Per the direction of the County, CONTRACTOR will circulate the Initial Study with the NOP, since it will offer more information to interested parties and clarify which issues will not be addressed further. To ready the draft Initial Study for release, CONTRACTOR will remove issue area discussions that will be addressed in detail in the EIR, and update to utilize the latest CEQA Appendix G checklist. If the County decides to use the Initial Study to prepare an Effects Found Not to be Significant section a budget amendment will be required.

CONTRACTOR will submit a draft NOP with attached Initial Study to County staff for review. CONTRACTOR will make any necessary changes to the NOP and provide an electronic copy to County staff for signature, publication, and distribution. This scope of work assumes that the County will distribute the NOP to the State Clearinghouse, Monterey County Clerk/Registrar Recorder and the County's list of local interested parties. CONTRACTOR will summarize all input gathered during the 30-day NOP review period for inclusion in the EIR introduction.

#### **Optional Task: Public Scoping Meeting**

Under State CEQA Guidelines Section 15082(C) a public scoping meeting is required for project of "statewide, regional, or areawide significance pursuant Section 15206." The proposed project does not meet the criteria as a project of statewide, regional, or areawide significant as defined by Section 15206. As a result, a scoping meeting is not required under State CEQA Guidelines. However, a scoping meeting would bolster public input and transparency. As such, a scoping meeting is included as an optional task.

If desired and approved by the County, CONTRACTOR will conduct a public scoping meeting during the 30-day NOP period to introduce the community and interested agencies to the project, provide an overview of the EIR process and obtain input on the EIR scope of work. The scoping meeting will include a presentation with graphic imagery, followed by the formal recordation of input from meeting attendees. Due to COVID-era work protocols it is anticipated that this meeting will be held via a video-conferencing platform. CONTRACTOR will work with the County to pick a virtual platform (e.g., Zoom, Microsoft Teams, or WebEx) and work closely with CONTRACTOR and County Information Technology (IT) teams to organize the meeting. If the meeting is held in-person, CONTRACTOR assumes that the scoping meeting location will be arranged by the County. Either way, CONTRACTOR will prepare a PowerPoint presentation for the meeting and present during the meeting.

### **Optional Task: Peer Review of Biological Resources Assessment and Forest** Management Plan

If the County requests, CONTRACTOR can peer review the existing 2013 Biological Resources Assessment (BRA) prepared by Zander and Associates and the July 2007 Staub Forestry & Environmental Consulting Forest Management Plan (FMP) provided by the applicant to independently verify that the reports are sufficient to support CEQA analysis, and that the conclusions therein are defensible. This peer review will focus on methodology and high-level, "fatal flaw" issues, and will not be an exhaustive or detailed review of documentation or grammatical editing. We will prepare a brief memorandum summarizing the results of the peer review, providing recommended remedies, as applicable, to address any potential shortfalls.

The findings of the peer review will be summarized in a single memorandum, which will be submitted to the County digitally. No coordination with the preparers of the technical studies is assumed.

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#### TASK 4 - Administrative Draft EIR:

After County staff approval of the project description, CONTRACTOR will prepare an Administrative Draft EIR. The Administrative Draft EIR for the project will be prepared in accordance with the current CEQA Statutes and Guidelines. Each of the environmental issue areas included in the CEQA Environmental Checklist Form will be addressed at a level of detail sufficient to allow CONTRACTOR to make determinations of significance (please see the Technical Approach to Environmental Issues section below for an approach to environmental issue areas). The EIR will be organized such that each topical section is consecutively numbered to allow easy cross referencing of impacts and mitigation measures.

The Administrative Draft EIR will consist of the following sections:

- Executive Summary and Table of Contents. The Executive Summary section will summarize the revised project and associated environmental consequences. Impacts will be presented in tabular format to simplify review by decision-makers and the general public. The Table of Contents will provide readers with the appropriate page number where each major section of the EIR can be found, consistent with Section 15122 of the CEQA Guidelines.
- Project Description. The Project Description section will consist of the project description that was prepared in Task 2. This section will include a description of the project, focusing on project characteristics relevant to the analysis, project objectives, and required discretionary approvals. Construction details, such as duration and potential equipment, will also be summarized to inform the analysis. The project description will include textual, tabular, and graphic presentation to fully describe the project and form a basis for the environmental analysis.
- Introduction and Environmental Setting. These required introductory sections will lay the groundwork for and summarize the substantive analysis to follow. The introduction will describe the purpose and legal authority of the EIR, and provide a discussion of lead, responsible, and trustee agencies. The environmental setting will provide a general description of the existing geographic character of the project site and the site vicinity.
- Environmental Impact Analysis. This section will analyze impacts to each resource area evaluated in the EIR. For each issue area, the analysis will include four main components:
  - Setting. Description of current conditions with respect to the issue in question, including the existing regulatory environment
  - Impact Analysis. Discussion of potentially significant effects of the proposed project; impacts are typically compared to established "thresholds of significance"
  - Mitigation Measures. Methods by which significant effects can be reduced or eliminated

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- Level of Significance After Mitigation. Discussion of whether or not proposed mitigation measures reduce impacts to below the adopted significance threshold
- Other CEQA-Required Discussions. This section will include discussions of other sections required by the CEQA Guidelines and will include an analysis of potential growth-inducing impacts and irreversible environmental effects. This section will also address resource areas with all less than significant impacts or no impacts.
- Cumulative Impacts. Consistent with Section 15130 of the CEQA Guidelines, cumulative impacts resulting from the project impacts combined with impacts of other projects in the area will be evaluated. Other projects in the area will be derived in consultation with the County. Mitigation measures will be provided, as applicable, to reduce significant cumulative impacts of the project.
- Alternatives. This section will be prepared in accordance with the requirements of the State CEQA Guidelines, Section 15126.6, and recent court decisions. The purpose of this section will be to promote informed decision-making and to evaluate a reasonable range of project alternatives. CONTRACTOR Consultants assumes up to three alternatives will be evaluated. This will include the CEQA- required "no project" alternative and up to two project alternatives.
- **References.** This section of the EIR will provide a list of references for the citations found in the body of the EIR. A copy of the reference material will be kept in the administrative record, and provided to the County completion of the Draft EIR, as outlined in Task 9.

#### **TASK 5 - Second Administrative Draft EIR:**

CONTRACTOR will respond to County comments on the Administrative Draft EIR and submit a Second Administrative Draft EIR for review. This document will be submitted in Microsoft Word with revisions shown in track changes.

#### TASK 6 - Public Review Draft EIR:

After County review of the Second Administrative Draft EIR, CONTRACTOR will conduct final revisions and prepare the Draft EIR for public review. Prior to publication, we will provide a clean PDF screen check document for final County review. We assume that any comments at this stage will be limited to minor typographical or formatting edits, if any. We have assumed that the County will be responsible for all public noticing and circulation of the Draft EIR to the State Clearinghouse, County Clerk, and interested parties. We further assume the County will be responsible for newspaper posting and noticing to nearby property owners. CONTRACTOR staff will assist with preparation of notices and advise the County on CEQA circulation procedures as needed. CONTRACTOR will provide 11 hard copies plus 27 CDs of the Draft EIR in digital (Adobe PDF) format.

# TASK 7 - Responses to Comments/Administrative Final EIR:

Upon receipt of public comments on the Draft EIR, CONTRACTOR will prepare draft response to comments and an Administrative Final EIR for review by the County. This scope of work assumes that up to 10 comment letters containing comments on the content of the CEQA document will be received. This includes three lengthy (over five pages) and/or substantive letters, that can be adequately responded to in a maximum of 80 professional staff hours. These assumptions are based on our prior experience with similar EIRs and our understanding of the litigious nature of CEQA review in the county. Comment letters that solely express support or opposition to the project would not count against the 10-letter estimate. The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period. This scope of work assumes up to three rounds of expedited review by the County staff.

# TASK 8 - Final EIR and MMRP:

Upon receipt of comments on the Administrative Final EIR, we will incorporate changes and prepare the Final EIR. This task will also include preparation of the Mitigation Monitoring and Reporting Program (MMRP), which will include a list of mitigation measures, monitoring timing, and responsibility in Microsoft Word format, for County staff to easily input into Accela.

Prior to certification of the Final EIR, and after receiving comments by County staff on the Administrative Final EIR, CONTRACTOR will deliver 18 hard copies of the Final EIR, along with 17 CDs and a digital copy (Adobe PDF) for posting to the County's website. This will be the "hearing draft" version of the EIR for use by the decision makers when they consider the project for final action.

Upon certification of the Final EIR and project approval, we will prepare a Final EIR that includes any Planning Commission- and/or Board of Supervisors-directed changes, and submit this to the County in digital form and in PDF and Microsoft Word formats. CONTRACTOR will also prepare a Notice of Determination (NOD), which we assume County staff will file with the Monterey County Clerk, including applicable filing fees.

## **Optional Task: CEQA Findings**

If requested by the County, CONTRACTOR can prepare the CEQA findings for the project in accordance with CEQA Guidelines Section 15091. The findings will include information related to whether those significant impacts identified in the EIR will be reduced to below a level of significance by mitigation measures identified in the document. If a significant and unavoidable impact is identified in the EIR, CONTRACTOR will prepare the Statement of Overriding Considerations. CONTRACTOR will provide an administrative draft of the CEQA findings for County

staff and legal review and comment, and then incorporate comments into a final document.

# **Optional Task: Public Hearing Attendance**

As an optional task, CONTRACTOR's Principal-In-Charge and/or Project Manager can attend up to two public hearings on the project. Attendance will include oral presentations to the hearing body and graphic presentations, if desired. CONTRACTOR will attend additional hearings at a rate of \$1,500 per meeting.

# **TASK 9 - Administrative Record**

CONTRACTOR will maintain the Administrative Record for this project. CONTRACTOR will develop a work plan at the outset that instructs internal staff on the way in which the Administrative Record will be developed and maintained. As sources are referenced in each section of the report, they are logged in an index containing a hyper-linked cross-reference to the individual source files, copies of which are maintained on company servers. These include, for example, guidance documents, websites, correspondence, and technical memoranda. The citations and source files will be audited during our technical review to ensure the record is complete and comprehensive. The index and source files will be supplied on a thumb drive alongside the Draft EIR. If any citations are added during preparation of the Final EIR, the added source files will be submitted via CONTRACTOR's File Transfer Protocol (FTP) server.

# **TASK 10 - Project Management**

This task includes management and coordination through the duration of the project, including project oversight, budget and schedule management, and project accounting including billing and accounts receivable efforts. In addition, this task includes up to three virtual meetings, which would be attended by CONTRACTOR's local Project Manager or Principal-in-Charge. Additional bi-weekly check-in conference calls are assumed to occur via telephone and last approximately thirty minutes each. CONTRACTOR's Principal-in-Charge and/or technical staff will participate in check-in calls when appropriate.

# **Technical Approach to Environmental Issues**

Based on our experience with similar projects and the project area, the EIR will focus on the following issue areas. Other issues (including Agricultural and Forestry Resources, Energy, Hazards and Hazardous Materials, Mineral Resources, Population and Housing, Public Service, and Recreation) will be addressed in the revised Initial Study circulated with the NOP. Alternatively, if the County prefers not to circulate the Initial Study, these issue areas will be addressed in an Effects Found Not to be Significant section.

To the extent possible, Rincon will incorporate information from the existing technical reports prepared for the project. Rincon will additionally leverage our extensive experience in CEQA review in the county as well as the existing Initial Study for the

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Rincon Consultants, Inc. Charolais Ranch Subdivision Project EIR Housing and Community Development

project to streamline the analysis, where possible. If the analysis determines any potentially significant environmental effects may result, beyond those that were already identified in the previous Initial Study, we will notify the County immediately.

# Aesthetics

The project site is located in a rural area immediately south of Pesante Road, approximately 0.75 mile east of U.S. Highway 101. While the site is not visible from Highway 101 due to intervening topography, future development on the site would be visible from local roadways, including Pesante Road and Hillview Terrace. Rincon will photo document the existing visual setting during a site visit and assess whether removal of 215 oak trees and development of the site with up to 26 new residences and associated roads and utilities would have a substantial adverse effect on a scenic vista, substantially damage scenic resources, or substantially degrade the existing visual character or quality of the site and its surroundings. This section will also consider the addition of nighttime lighting and daytime glare to the site. Mitigation will be identified as appropriate.

# Air Quality

The air quality analysis will be prepared in conformance with the methodologies and significance thresholds outlined in the Monterey Bay Resources District (MBARD) CEQA Air Quality Guidelines. The analysis will include a discussion of the current air quality setting within the local airshed along with local climatic and air pollution data from local air monitoring stations. Significance criteria will be based on MBARD thresholds. Potential long-term emissions associated with the project are primarily the result of traffic generated by the proposed project. These emissions will be quantified for the proposed project using the California Emissions Estimator Model (CalEEMod) based on the trip generation rates provided in the TIA for the project. Area source emissions (e.g., those associated with natural gas consumption, landscaping, and architectural coatings) will also be quantified. Total projected long-term emissions will be compared to the MBARD's operational thresholds of significance (137 pounds per day of VOC or NOx, 82 pounds per day of PM<sub>10</sub>, 550 pounds per day of CO, and 150 pounds per day of SO<sub>x</sub>) to determine their significance. If projected emissions would exceed thresholds, measures to mitigate air quality impacts will be identified. Short-term constructionrelated emissions will be estimated based on standard regional assumptions for equipment activity and construction duration and compared to current state and federal Air Quality Standards and MBARD construction emissions thresholds of significance (82 pounds per day of PM10). Consistency with the current Air Quality Management Plan (AQMP) will be determined. This includes a comparison of population generated by the proposed project with Association of Monterey Bay Area Governments (AMBAG's) regional growth forecasts. In accordance with the latest consistency procedures, AMBAG will not be contacted to make the consistency determination. If significant impacts are identified, appropriate mitigation measures will be provided in consultation with MBARD.

## **Biological Resources**

The 2007 BRA (Zander Associates 2007; updated 2013) described the project site as undeveloped and consisting predominantly of grasslands, coast live oak woodlands, chaparral, and coastal scrub habitats. Based on the results of the existing FMP (Staub Forestry & Environmental Consulting 2007), the proposed project would result in the removal of approximately 215 coast live oak trees. Two seasonal wetlands located on the property were originally evaluated as avoided and preserved in the proposed open space parcels. The BRA is 13 years old, with a seven-year-old update, and is outdated for the purposes of CEQA review. The BRA and update also lack any figures or mapping of vegetation communities or land cover types, and as such, Rincon cannot confirm the accuracy of the reported extent of impacts to specific vegetation communities, or the avoidance of season wetlands. Additionally, the BRA did not address all of the CEQA Appendix G checklist questions for biological resources.<sup>1</sup> Given these identified issues, Rincon recommends that we complete an updated assessment of potential impacts to biological resources, including resources that may have become protected since the most recent BRA update in 2013.

Rincon's biological resources assessment will document the current existing biological conditions, map vegetation communities and land cover types in the study area, evaluate the potential for impacts to sensitive biological resources from project development based on current site designs, and develop mitigation measures to reduce potential impacts to less than significant levels. The biological resources assessment will include a review of all readily available existing information, project plans, aerial imagery, databases (i.e. California Natural Diversity Database [CNDDB] and California Native Plant Society [CNPS] rare plant inventory) and other available literature, including the project-specific BRA (Zander 2007; updated 2013) and FMP (Staub Forestry & Environmental Consulting 2007), as well as a reconnaissance-level field survey to verify preliminary desktop mapping of vegetation communities and wildlife habitats present on the project site. Our scope does not include protocol-level botanical or wildlife surveys; however, the assessment may determine that protocol surveys would be required based on preliminary results. The analysis will address potential impacts to special status plants and wildlife, sensitive vegetation communities, and jurisdictional waters, if present, and will evaluate potential impacts, and possible mitigation for loss of oak woodland and individual oak trees in the context of the applicant prepared FMP, and the County's position on Legislative Analysis of Senate Bill (SB) 1334 (Oak Woodlands Conservation, Conversion & Environmental Review). The results of the biological resources assessment will be presented in the Biological Resources section of the EIR. The scope of work does not include preparation of sand-alone BRA Report, or formal updates to the existing BRA.

The EIR section will 1) document the existing baseline conditions for biological resources; 2) evaluate the potential for special status plants and animals to occur on the site; 3) present an impacts analysis for biological resources inclusive of sensitive vegetation communities and jurisdictional wetlands (including waters of the U.S. and waters of the State including associated riparian habitat), wildlife movement corridors

and wildlife nurseries, local policies and existing conservation plans; and 4) propose suitable mitigation, if necessary, to reduce potential impacts.

# **Cultural Resources**

As part of a cultural resources investigation, Rincon will conduct a California Historical Resources Information System (CHRIS) records search of the proposed project site as well as a 0.5-mile radius around the project site at the Northwest Information Center (NWIC) located at Sonoma State University. The records search will reveal the nature and extent of any cultural resources work previously conducted within the project site and adjacent vicinity. Rincon assumes NWIC direct expenses will not exceed \$1,000. Rincon will contact the California Native American Heritage Commission (NAHC) for a review of their Sacred Lands File (SLF). Rincon will prepare and mail a letter to NAHC-listed contacts received from the SLF, requesting that they notify the county about any known Native American cultural resources within or near to the project site. This task does not constitute formal consultation under Assembly Bill (AB) 52; it is a standard best management practice intended to gather information to inform the cultural resources analysis.

Monterey County Geographic Information System indicates that the subject property has a low archaeological sensitivity; however, AB 52 consultation previously conducted for the project has identified the area as sensitive for Native American resources. Further, the area has been used historically for ranching activities and may contain post-contact cultural resources. The project site contains oak woodland and a seasonal drainage that would have provided resources attractive to human habitation. Based on the project site setting, AB 52 consultation, and Rincon's understanding of the region, the project site may contain cultural resources. Therefore, Rincon will conduct a targeted cultural resources site visit to examine the areas most likely to contain cultural resources. For the purposes of this scope and cost, Rincon assumes no cultural resources will be identified during the study. Upon completion of the survey and analysis of results, Rincon will prepare a brief cultural resources memorandum discussing the results of the records search, Native American scoping, and field survey. The results of this memorandum will be used to inform the CEQA analysis.

# **Geology and Soils**

Portions of the project site have slopes exceeding 30 percent, and the site is in an area subject to substantial ground-shaking hazards. According to the Preliminary Geologic & Soil Engineering Report and Percolation Testing (Geotechnical Report; Landset Engineers 2006), the proposed residential development is feasible from a geologic and soil engineering standpoint provided that recommendations included in the report are incorporated into the project design. This Geotechnical Report will be incorporated into the EIR section. The corresponding discussion will identify potential impacts associated with slopes, seismic risk, and soil-related hazards (e.g., liquefaction, shrink-swell, erosion, etc.). Per County protocol, recommendations contained in the Geotechnical

Report will be identified as conditions of approval for the project, rather than as mitigation.

The geology section will also discuss the suitability of on-site soils for installation of the proposed septic systems, based in the Geotechnical Report and Supplemental Percolation Testing report (Landset Engineers September 2007).

Lastly, the EIR will discuss the paleontological sensitivity of geologic units within the project site, assess potential for impacts to paleontological resources from development of the proposed project, and recommend mitigation measures to avoid or mitigate impacts to scientifically significant paleontological resources.

# **Greenhouse Gas Emissions**

The EIR will evaluate impacts related to greenhouse gases (GHGs) and climate change. Using CalEEMod, GHG emission for the proposed project will be quantified. The EIR will summarize the proposed project's potential contribution to cumulative impacts related to climate change. The impact analysis will include an overview of the types and sources of GHGs, and the potential environmental effects of GHGs and climate change. An overview of the current regulatory framework regarding GHGs & climate change, including AB 32, SB 97, and SB 375, as well as adopted amendments to the State CEQA Guidelines, will also be described.

MBARD has not formally adopted thresholds to evaluate GHG emissions. In the absence of local guidance, Rincon will consult with MBARD staff during the preparation of this section to verify the appropriate thresholds. In our experience, MBARD encourages lead agencies to consider a variety of metrics for evaluating GHG emissions and related mitigation measures as they best apply to the specific project. MBARD has in the past recommended using the adopted San Luis Obispo Air Pollution Control District (SLOAPCD) quantitative threshold for land use projects, which may be appropriate here given prior County precedent. To account for the recent court case, *Golden Door Properties v. County of San Diego*, Rincon will provide a summary justifying the use of this threshold. Finally, using the results from the CalEEMod run, Rincon will prepare a GHG section that focuses on the impacts of the proposed project on climate change.

# Hydrology and Water Quality

Based on Rincon's local knowledge of the hydrology and water quality issues across the Monterey Peninsula, Rincon estimates that this section of the EIR is likely to be one of the two most controversial issues of the project (alongside Biological Resources). This section of the EIR will be based on a Preliminary Drainage Study prepared for the project by LandSet Engineers (January 2007), the Hydrogeologic Study prepared for the project by Aaron Bierman (February 2020), as well as Rincon's extensive expertise and local knowledge in the area of water resources.

Water to the project would be provided by the PSMCSD, which has provided a will-serve letter for the project. Specifically, the property is located in the NORMCO water service

area of PSMCSD. The applicant proposes expansion of and connection to the NORMCO water system which is owned and operated by PSMCSD with oversight from the State Water Resources Control Board and Monterey County Environmental Health Department. According to the RFP, it is anticipated that adequate water quality can and will be provided for project from the NORMCO water system service area. The well that is proposed to serve the subdivision is located in the Langley Subbasin which is part of the Salinas Valley Groundwater Basin. The Hydrogeologic Study (2020) concludes that there is long-term water supply to serve the project. Rincon will review the Hydrogeologic Study, as well as reviewing existing information available from PSMCSD to determine if project water demand would substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or lowering of the groundwater table. If a potentially significant environmental impact is identified, Rincon will work with the County to identify applicable mitigation to minimize project impacts to the greatest extent feasible.

The EIR will also describe the existing flooding, drainage and stormwater collection systems within the immediate project area. The analysis will describe regulations regarding water quality, including

National Pollutant Discharge Elimination System (NPDES) requirements. Potential impacts related to runoff volumes, drainage patterns, and water quality will be determined, with a qualitative discussion of impacts to water resources. Recommended mitigation measures to contain projected stormwater flows, protect long-term water quality, and promote water conservation will be provided as appropriate.

This scope of work does not include preparation of long-term water supply planning projections, but rather a review and summation of existing available data provided in the Hydrogeologic Study. If this data review and analysis determines that additional, site- or project-specific data is needed we will alert the County immediately and consult on how best to proceed.

# Land Use and Planning

The land use analysis will consider whether the proposed project would physically divide an established community; conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect; or conflict with applicable habitat conservation plan or natural community conservation plan. According to County policy, because the project application was deemed complete in 2007 (prior to adoption of the 2010 General Plan), policies contained in the 1982 Monterey County General Plan apply to this project. The policy consistency analysis in the EIR will, therefore, focus on relevant 1982 policies adopted for the purpose of avoiding or mitigating an environmental effect.

#### Noise

The noise analysis will evaluate the project's temporary noise and vibration impacts associated with project construction, long-term noise impacts related to project traffic, and potential exposure of residential units to noise. Rincon will conduct up to two 15minute daytime sound level measurements in the field using an ANSI Type II sound level meter. These noise measurements will be taken during the aesthetics analysis site visit. The analysis of temporary noise and vibration impacts associated with construction will be based on typical construction noise and vibration levels and standard noise and vibration attenuation factors. Noise and vibration levels associated with construction activities will be quantified and projected at the nearest sensitive receptors and compared to applicable County standards. Traffic noise will be forecasted and will be added to the existing and baseline cumulative traffic volumes. From this, the incremental noise level increases will be calculated and compared to Federal Transit Administration (FTA) thresholds developed based on FTA criteria. Ambient noise on-site will be compared to the most recent County standards to determine whether or not the proposed residential units would be exposed to noise exceeding acceptable levels. Mitigation requirements will be identified for noise impacted areas. Noise reduction measures may involve various methods to address temporary construction impacts and/or techniques to minimized exposure of off-site receptors and/or site residents to excessive noise, including building techniques to reduce interior noise, orientation of outdoor activity areas, or the use of walls, greenbelts, and/or setbacks.

## **Transportation**

Hexagon will update the TIA originally prepared by Mott MacDonald (August 2016). Hexagon will include an analysis of vehicle miles traveled (VMT). The VMT analysis will rely on the AMBAG Travel Demand Model to estimate the total Countywide VMT without and with the project under one horizon year selected by the County. In addition, VMT related to the project will be compared to local and regional averages. Based on the result of the VMT analysis, the updated TIA will identify project impacts. If significant impacts are identified, mitigation measures will be recommended, as appropriate, that could avoid or reduce a significant impact including implementation of Travel Demand Management measures or in-lieu fees to fund regional VMT-reduction programs. The VMT analysis will be provided digitally in a letter style report. Refer to Attachment A for Hexagon's full proposed Scope of Services.

# **Tribal Cultural Resources**

We understand that the County has completed AB 52 consultation with the Ohlone/Costanoan-Esselen Nation (OCEN). OCEN identified the area as sensitive and requested mitigation measures be incorporated. Rincon will summarize the AB 52 efforts undertaken by the County and will include mitigation consistent with OCEN's request in the EIR.

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Rincon Consultants, Inc. Charolais Ranch Subdivision Project EIR Housing and Community Development

Rincon assumes that the County has completed their AB 52 obligations for this project and does not require assistance with any additional consultation. If the County requires such assistance, Rincon can provide it at additional scope and cost.

# Utilities and Service Systems

The proposed project would result in an increase in demand for public services and utilities. According to the RFP, water to the project would be provided by the PSMCSD and wastewater service would be provided by individual septic systems on each lot. As identified above, under Hydrology and Water Quality, the project may result in potential impacts due to a lack of long-term sustainable water supply. As a result, this section will rely on the Hydrogeologic Study (2020) to evaluate the water demands of the proposed project uses. Project water demands and water supply will be compared for three hydrologic conditions: (1) normal water year, (2) single dry year, and (3) severe drought conditions (i.e., three dry years). If significant impacts are identified, mitigation measures will be developed to avoid or minimize project impacts to the greatest extent feasible. In addition, Rincon will use information provided in the 1982 Monterey County General Plan and by County Environmental Health staff, as well as landfill information provided by Department of Resources Recycling and Recovery to quantify and describe the impacts of the project on water and wastewater systems and infrastructure, storm water, and solid waste landfills.

# Wildfire

According to the Monterey County Geographic Information System, the project is located in State Responsibility Area and is designated as a High Wildland Fire Hazard Area. Based on this designation, the EIR will assess the potential for exposure of future on-site residents to loss, injury, or death as a result of wildland fire. If significant impacts are identified, mitigation measures will be developed to avoid or minimize project impacts to the greatest extent feasible.

The project includes a secondary access road for emergencies, and the North County Fire District indicated in October 2015 that this secondary access would satisfy the needs of the Fire District. This analysis will include consultation with the North County Fire District to verify the continued applicability of this review. The EIR will examine these issues and provide appropriate mitigation.

# SCHEDULE

CONTRACTOR proposes a 39-week (or nine month) schedule for preparation of the EIR, as presented in the table below. Delays in receiving requested information or responses by others may result delays in the overall schedule.

Task	Timing	Total Time Elapsed
Notice to Proceed	-	
Project Kickoff	1 week after Notice to Proceed	1 week

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Rincon Consultants, Inc. Charolais Ranch Subdivision Project EIR Housing and Community Development

Task	Timing	Total Time Elapsed
Project Description	3 weeks	4 weeks
Optional: Public Scoping Meeting	1 day	During 30-day review period
Administrative Draft EIR	12 weeks	16 weeks
County Review	3 weeks	19 weeks
Second Administrative Draft EIR	3 weeks	22 weeks
County Review	1 week	23 weeks
Public Review Draft EIR	2 weeks	25 weeks
Public Review	45 days	31 weeks
Responses to Comments/ Administrative Final EIR	4 weeks	35 weeks
County Review	2 weeks	37 weeks
Final EIR and MMRP	2 weeks	39 weeks

# ASSUMPTIONS

- 1. All referenced technical reports provided by the County (other than the BRA) will not need verification and are deemed accurate, timely, and complete.
- 2. The Administrative Draft and Second Administrative Draft EIR will be submitted to the County in digital format only. Comments will be provided to CONTRACTOR in a single, consolidated version.
- 3. The EIR will not be reviewed extensively by County Counsel.
- 4. Appendices to the Draft EIR will not be provided in print or hard copy format, but instead attached as CDs to the back covers of print copies of the Public Draft EIR.
- 5. Responding to up to 10 comment letters received on the Public Draft EIR will require a maximum of 80 hours of professional CONTRACTOR staff time (excluding letters solely expressing support or opposition). These assumptions are based on our prior experience with similar EIRs and our understanding of the litigious nature of CEQA review in the County. The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period.
- 6. CONTRACTOR will provide up to 11 hard copies and 27 CDs of the Draft EIR and 18 hard copies and 17 CDs of the Final EIR.
- 7. The County will manage all required noticing and filing fee payments.
- 8. CONTRACTOR staff will not assist in staff report preparation.

All written reports required under this Agreement must be delivered in accordance with the above Task schedule to the following individual:

Craig Spencer, Planning Services Manager County of Monterey Housing and Community Development 1441 Schilling Place, 2<sup>nd</sup> Floor Salinas, California 93901-4527 Email: <u>SpencerC@co.monterey.ca.us</u>

# **B. PAYMENT PROVISIONS**

# **B.1 COMPENSATION/ PAYMENT**

County shall pay an amount not to exceed \$148,858.30 for the performance of <u>all things</u> <u>necessary</u> for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

Professional, Technical and Support Personnel	2021 Hourly Rate	2022 Hourly Rate	2023 Hourly Rate	2024 Hourly Rate	2025 Hourly Rate
Principal II	\$247	\$254	\$262	\$270	\$278
Director II	\$247	\$254	\$262	\$270	\$278
Principal I	\$227	\$234	\$241	\$248	\$255
Director I	\$227	\$234	\$241	\$248	\$255
Senior Supervisor II	\$211	\$217	\$224	\$231	\$237
Supervisor I	\$201	\$207	\$213	\$220	\$226
Senior Professional II	\$180	\$185	\$191	\$197	\$203
Senior Professional I	\$165	\$170	\$175	\$180	\$186
Professional IV	\$149	\$153	\$158	\$163	\$168
Professional III	\$134	\$138	\$142	\$146	\$151
Professional II	\$118	\$122	\$125	\$129	\$133
Professional I	\$108	\$111	\$115	\$118	\$122
Associate III	\$98	\$101	\$104	\$107	\$110
Associate II	\$93	\$96	\$99	\$102	\$105
Associate I	\$84	\$87	\$89	\$92	\$95
Project Assistant	\$77	\$79	\$82	\$84	\$87
Senior GIS Specialist	\$144	\$148	\$153	\$157	\$162
GIS/CADD Specialist II	\$129	\$133	\$137	\$141	\$145

Professional, Technical and Support Personnel	2021 Hourly Rate	2022 Hourly Rate	2023 Hourly Rate	2024 Hourly Rate	2025 Hourly Rate
GIS/CADD Specialist I	\$115	\$118	\$122	\$126	\$129
Technical Editor	\$115	\$118	\$122	\$126	\$129
Production Specialist	\$91	\$94	\$97	\$99	\$102

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 CONTRACTORS BILLING PROCEDURES**

NOTE: Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.

County may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

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.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

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# RINCON CONSULTANTS, INC.

Charolais Ranch Subdivision Project

**CEQA Services Cost Estimate** 

	Rince	in Labor Class	fication (	Physical I	Senior Professional I	retenantiv	Professional IS	Professional II	Preduction Specialise	OIS/CADD Specialist	Climited
asks	Lobor Cor	Direct	Hours	\$227	\$165	\$149	\$134	\$118	891	\$129	\$77
Task 1: Project Kickoff	51,802	\$33	10	4		6	1	-		*******************************	Contractor of the Owner of the
Task Sub	total \$1,802	\$33	10	4		4					
Task 2: Project Description	\$3,027		22	2		5	ŝ		1	4	
Sask Sub	totol \$2,027		21	2	1	6	8		1	4	
Task 3: Notice of Preparation and Initial Study	\$3,719		27	4	1	4		2.6	3		
Task Sub	latal \$3,719		27	4		4		18	T		
Task 4: Administrative Draft EIR Descutive Summary Introduction and Environmental Setting Environmental Impact Analysis Aesthetics Air Duality Biological Resources Caltural Resources Caltural Resources Caltural Resources Caltural Resources Caltural Resources Caltural Resources Caltural Resources Caltural Resources Hydrology and Water Quality Noise Isand Che and Planning Transportation Tribal Caltural Resources Ubilities Wildfire Other CEQA-Required Discussions	\$1.7 \$1.3 \$2.5 \$3.0 \$6.4 \$5.0 \$3.0 \$3.0 \$3.0 \$2.8 \$3.0 \$2.8 \$3.0 \$2.7 \$2.7 \$2.7 \$2.7 \$2.7 \$2.8 \$2.8 \$2.8 \$2.8 \$2.8 \$2.8 \$2.8 \$2.8	12 13 19 19 19 10 10 10 10 10 10 10 10 10 10	21 58 50 18 21 18 21 18 19 11 18 10 23	2 2 1 2 1 1 2 2 2 2 2 1 1 1	3 2 2 2 2 2 2 2 2 2 2 2 3 2 2 3 3 2 3	8 6 32 14	16 14 16 14 14 14 14	14 16 40 10	1 1 2 1 1 1	2 6 2 1 2	
Alternatives (4)	52.2. 54.4		15 29	1 2	4	20	10				
References and List of Preparers	51,1		6	2	4	20	1		1	2	
Task Sub	lotol \$54,676	\$15,676	381	32	38	80	120	80	8	13	
Task 5: Second Administrative Draft EIR	\$6,258		40	Ŕ	ų,	10	10	1	4	2	
Tosk 3vb	0101 \$6,258		40	8	4	10	10		4	2	
Task 6: Public Review Draft EIR	5a,8i		3£	4	6	6	10		\$		The Property and a second second second
Task Sub	and the second se	\$2.055	34	4	6	6	10		8		
Task 7: Responses to Comments/Administrative Final EIF			80	10	20	30	8	8	2	2	
Task Sub	No all prints of the All Prints and the All	\$2,055	80	10	20	30	8	8	2	2	
Task 8: Final EIR and MMRP	\$4.5.		30	4	4	6	14		2		
Task Sub		\$2,953	30	4	4	6	14		2		
Task 9: Administrative Record	\$2,9		12	ä			Û				
Task Sub	And the second of the second	\$20	12	4			8				10000
Task 10: Project Management and Coordination Tost Sub	\$15,4. 0101 \$15,425	15	91 01	35 33		44					12
											12

## Direct Cost Detail

Vehicle Costs	S	268
Sound Level Metering Field Equipment	5	100
Standard Field Equipment Package	S	95
EIR Production	\$	4,350
Reproduction CDs	\$	660
USB Flash Drive	\$	20
Hotel/Per Diem	\$	236
NWIC Records Search (Cultural)	\$	1,150
Subconsultant, Fee: Hexagon (Transportation)	\$	13,800
SUBTOTAL	CONTRAL CONTE E	30.030

#### Summary

Professional Fees Subtotal		\$108,763
Direct Costs Subtotal		\$20,679
	TOTAL PROJECT BUDGET	\$ 129,442
ptional Tasks		
Public Scoping Meeting		 \$2,500
Peer Review of BRA and FMP		 \$8,050
CEQA Findings		\$5,000
Public Hearing (\$1,500 per Hearing)		 \$3.000

TOTAL OPTIONAL TASK BUDGET

Professional Services - The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, <u>as joing as</u> the total contract price is not exceeded.

18,550

Rincon Consultants, Inc. Charolais Ranch Subdivision Project EIR Housing and Community Development

# **Invoice Coversheet**

Rincon Consultants, Inc. Charolais Ranch Subdivision Project EIR

Date:	
Invoice No.	

Agreement Term: Agreement Amount:

This Invoid	ce:	
Task 1	\$1,802.00	KICKOFF
Task 2	\$3,027.00	DESCRIPTION
Task 3	\$3,719.00	NOTICE OF PREPARATION AND INITIAL STUDY
Task 4		ADMINISTRATIVE DRAFT EIR
	\$1,737.00	Executive Summary
	\$1,348.00	Introduction and Environmental Setting
		Environmental Impact Analysis
	\$2,503.00	Aesthetics
	\$3,019.00	Air Quality
	\$8,429.00	Biological Resources
	\$6,286.00	Cultural Resources
	\$2,660.00	Geology and Soils
	\$3,019.00	Greenhouse Gas Emissions
	\$2,870.00	Hydrology and Water Quality
	\$3,019.00	Noise
	\$2,586.00	Land Use Planning
	\$16,589.00	Transportation
	\$1,737.00	Tribal Cultural Resources
	\$2,488.00	Utilities
	\$2,397.00	Wildfire
	\$2,227.00	Other CEQA-Required Discussions
	\$4,448.00	Alternatives (4)
	\$1,114.00	References and List of Preparers
Task 5	\$6,258.00	Second Administrative Draft EIR
Task 6	\$4,860.00	Public Review Draft EIR
Task 7	\$12,496.00	<b>Responses to Comments/Administrative Final EIR</b>
Task 8	\$4,520.00	Final EIR and MMRP
Task 9	\$1,980.00	Administrative Record
Task 10	\$15,425.00	<b>Project Management and Coordination</b>
		Direct Cost Summary
	\$268.00	Vehicle Costs
	\$5,010.00	Printing and Reproduction Costs
	\$5,278.00	GRAND TOTAL
		REMAINING BALANCE

Approved as to Work/Payment:

Craig Spencer, Planning Services Manager

Date

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Rincon Consultants, Inc. Charolais Ranch Subdivision Project EIR Housing and Community Development

# **EXHIBIT B – REVISION TO SECTION 8, INDEMNIFICATION, OF AGREEMENT**

# 8. **INDEMNIFICATION**.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

# 8.02 Indemnification for Design Professional Services Claims:

CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

# 8.03 Indemnification for All Other Claims or Loss:

For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY.

# **EXHIBIT 2**

# APPLICABLE FEE SCHEDULE, DATED September 19, 2019



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# EXHIBIT 2 MONTEREY COUNTY LAND USE FEES MATRIX Approved September 17, 2019

Fee Type (1) (2)	RMA Tier	Foot-notes	Total Upfront Fees for Customers w/ OWTS (Add'1 fees may apply) (2)	Total Upfront Fees for Customers w/ Public Utilities (Add'l fees may apply) (2)	RMA Fce 2019	RMA File Storage Fee (1.70%)	RMA Tech Fee (6.20%)	RMA GPUI	County Counsel Fee 2019	EHB Fee 2019: OWTS, Well, or Water System	EHB Fce 2019: Public Utilities	CAO 2019
dress Assignment (first address assignment)	No Fee		s	-	' \$	-	-	-	-	69	- - 	\$
dress Assignment (additional address assignments)	Each		\$ 97		\$ 90	\$ 1.53	S 5.58	" S	•		\$	- S
ministrative Permit or Coastal Administrative Permit (General) numercial or Industrial	Tier 4		\$ 7,628	\$ 6,845	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 167	\$ 1,566	\$ 783	
ministrative Permit or Coastal Administrative Permit (General) sidential	Tier 4		\$ 7,628	\$ 6,219	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 167	\$ 1,566	\$ 157	' \$
port Land Use Commission Application Review	Tier 2		\$ 1,402	\$ 1,402	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	<b>\$</b> 223	s.	\$	÷
peal (Coastal)	No Fee	(3) (7)	s	- s	' S	•	•	- \$	- S		\$	s
peal (Inland)	Each	(1)	\$ 3,540		\$ 3,000	\$ 51.00	\$ 186.00	۰ \$	\$ 146	\$ 157	\$ 157	' \$
peal of Fee Determination (No GP surcharge)	Tier 2	(3)(7)	\$ 1,225	\$ 1	\$ I,		\$ 62.00	•	\$ 146	•	•	•
plication Request	Tier 1	(2)	\$ 540	÷	s	\$ 8.50	\$ 31.00	۰ ۲	•	•		۲ د
5 Sur Viewshed Acquisition (Transfer of Development Right)	Tier 3		3,	s	s			\$ 300			•	
tificate of Compliance - Conditional (1-2 Lots)	Tier 5	(12)	10,	s	s		4	\$ 700	-	\$ 783	\$	' S
tificate of Compliance - Conditional (Add1 Lots \$1,000)	Tier 5	10.5	,   	s	\$			- 000 S		' \$		' \$
Titicate of Compliance - Unconditional (1-2 parcels)	lier 3	(12)		\$	\$	51.00		\$ 300	-	·	· ·	•
Tificate of Compliance - Unconditional (Add'I lots \$1,000)	Tier 3	(12)		~ ~	64 6	17.00				•	\$	•
Tilicate of Correction	11er 2		-],	~	A 4	1/.00			\$ 112			•
ange of commercial or industrial Use astal Development Permit - Commercial/Industrial	Tier 6		\$ 14.025	s 13.242	\$ 10.000 \$ 10.000	\$ 170.00	<b>\$</b> 620.00	S 1.000	\$ 669	s 1.566	<u> </u>	· ·
astal Development Permit - Residential	Tier 6		\$ 14,025		\$ 10.000	\$ 170.00	\$ 620.00	\$ 1.000		\$ 1.566	\$ 157	\$
astal Implementation Plan Amendment (Deposit)	Tier 7		25,	\$ 25,810		\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230			•
mbined Development Permit	Tier 6		\$ 14,025	\$ 13,242		\$ 170.00		\$ 1,000	\$ 669	\$ 1,566	\$ 783	•
mmercial Cannabis Permit - Initial Permit (Deposit)	Hourly		\$ 4,653	\$ 4,653	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ 424	\$ 2,050	\$ 2,050	\$ 1,000
mmercial Cannabis Permit - Renewal (Deposit)	Hourly		\$ 1,069		\$ 230	\$ 3.91	\$ 14.26	\$ 23	\$ 160	\$ 138	\$ 138	\$ 500
adition Compliance / Mitigation Monitoring (Deposit)	Hourly		\$ 9,020	\$ 9,020	\$ 6,000	\$ 102.00	\$ 372.00	\$ 600	\$ 446	\$ 1,500	\$ 1,500	•
adition Compliance without Mitigation Measures (Deposit)	Hourly		\$ 8,798	\$ 8,7	\$ 6,000	\$ 102.00	\$ 372.00	\$ 600	\$ 224	\$ 1,500	\$ 1,500	-
mer Record (Clerk Recorder Fees; Ca. Business and Professions Code § 3.2)	Each		\$ 26	\$ 26	\$ 24	\$ 0.41	\$ 1.49	1	69	• 69	se	<u>،</u>
ed Restriction Processing (ministerial permits)	Hourly		<u>\$ 500</u>	\$ 500	' S	s .	•	S		\$ 500	\$ 500	•
sign Approval - Administrative, review & approval required, no hearing uried	Tier 2		1,	-	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ 56		\$	' \$9
sign Approval - Over The Counter, limited in scope, no hearing required Tier 1	Tier 1		\$ 590	\$ 590	\$ 500	\$ 8.50	\$ 31.00	\$ 50	ı S	S	\$	۲ ج
sign Approval limited in scope, no hearing required, no other artmental review required, minor change to existing structure, no ition.	No Fee		، ج	\$	s S	, \$	s	۰ ج	s	, Э	\$	•
ign Approval, public hearing required	Tier 3		\$ 4,073	\$ 3,760	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ 223	\$ 313	\$	•
/elopment Agreement (Deposit)	Tier 7		\$ 25,810	\$ 25,810	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000 \$	\$ 2,230		- S	، ج
/elopment Review Conference - Commercial/Industrial	Tier 3	(5) (6)	\$ 4,320	\$ 4,320	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	' \$	\$ 783	\$ 783	•

Approved 2019 Land Use Fee Matrix for information purposed only. Please refer to department Fee Articles for adopted fee schedules.

881

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Fee Type (1) (2)	RMA Tier	Foot-notes	Total Upfront Fees for Customers w/ OWTS (Add'I fees may apply) (2)	Total Upfront Fees for Customers w/ Public Utilities (Add'I fees may apply) (2)	RMA Fce 2019	RMA File Storage Fee (1.70%)	RMA Tech Fee (6.20%)	RMA GPUI	County Counsel Fee 2019	EHB Fee 2019: OWTS, Well, or Water System	EHB Fee 2019: Public Utilities	CAO 2019
Development Review Conference - Residential	Tier 3	(2) (6)	\$ 4,320	\$ 3,537	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	۰ \$	\$ 783	•	5
Director's Interpretation - Appeal (No GP Surcharge)	Tier 2	(3) (7) (13)	1	\$ 1,225	\$ 1,000	\$ 17.00	\$ 62.00	•	\$ 146	•	•	•
Director's Interpretation (No GP Surcharge)	Tier 2	(1)	\$ 1,525	-	\$ 1,000	\$ 17.00	\$ 62.00	•	\$ 446	•	•	•
Emergency Permits	Tier 4		\$ 5,951		\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 56	•	•	•
Environmental Review - Addendum (tiered from earlier Environmental Impact Report: environmental review fees are additive to permit fees)	Tier 4			s	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 892	\$ 313	\$ 313	۲ د
Environmental Review - Environmental Impact Report, (Extraordinary Develomment A milication Denosit)	Tier 7		\$ 28,310	\$ 28,310	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ 2,500	\$ 2,500	- 69
Environmental Review - Initial Study (ND/MND; environmental review fees Tier 6 are additive to rotation fees.	s Tier 6		\$ 13,405	\$ 13,405	\$ 10,000	\$ 170.00	\$ 620.00	\$ 1,000	\$ 1,115	\$ 500	\$ 500	' S
Extraordinary Development Annlication (Denosit)	Tier 7		\$ 28.310	\$ 28.310	\$ 20.000	S 340.00	\$ 1.240.00	\$ 2.000	\$ 2.230	\$ 2.500	\$ 2.500	÷
Flood Zone Inquiry Report or Flood Zone Inquiry Cover Page	No Fee			s								-
Franchise Agreement	Tier 5		\$ 8,253	-	\$ 7,000	\$ 119.00	\$ 434.00	\$ 700	r S	•	•	•
Franchise Agreement Extension or Amendment	Tier 4		\$ 5,895	\$	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	- \$	s -	۰ ۲	•
General Development Plan	Tier 6		13	\$		\$ 170.00	\$ 620.00		\$ 167	\$ 1,566		۰ ۲
General Plan / Land Use Plan Amendment (Deposit)	Tier 7		\$ 28,310		\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ 2,500	\$ 2,500	•
Hazard Tree Removal	No Fee	(8)	۰ \$	- -	\$	\$ '	•	' \$	•	•	•	•
Hazardous Vegetation/Fuel Management Plan Review	No Fee		s -	s -	۱ S		•	•	•	•	•	' \$
Landscape Management Plan Review	Tier 1			\$	500	8.50	\$ 31.00	\$ 50	-	۔ \$	•	•
Letter of Public Convenience and Necessity	Tier 2			s	1,000	17.00		\$ 100	\$ 446	1	•	-
License to Cross Non-Access Strip	Tier 3		\$ 3,537	s	3,000			300		•	۶ ۲	-
Lot Line Adjustment - General	Tier 5			s	\$ 7,000	119.00		700		783	- S	-
Lot Line Adjustment - Williamson Act	Tier 5		2	S	\$ 7,000	119.00		700	-	783	'	•
Lot Line Adjustment Amendments, Revisions or Extensions	Tier 3		4	59	\$ 3,000	51.00		S 300		783	1	•
Mills Act Contract Application	Tier 3		4	s	\$ 3,000	51.00		\$ 300	\$ 892	I	1	- -
Mills Act Contract Selected Contract Processing	Tier 2		\$ 1,1/9 \$	5 1,1/9 c 0757	\$ 1,000	\$ 110.00	\$ 62.00 ¢ 424.00	001 S	1	·	1	· •
Minor and Trivial Amendment or Minor Amendment no hearing required	Tier 3		0	<b>n o</b>	3 000	21 00		300	s 112	783	· ·	• •
Monterev Peninsula Water Mont Dist Allocation Tracking	Fach				182	3.09				-	1	
	Tier 2		1	\$ 1.	1.000	17.00		\$ 100	\$ 223	ı	1	- 5
	Tier 3	(12)	\$ 4,875	-	\$ 3,000	51.00	\$ 186.00	\$ 300	\$ 1,338	•	- \$	•
sion (not otherwise specified)	Tier 4		\$ 7,347	-	\$ 5,000		\$ 310.00	\$ 500	\$ 669	783	\$ 783	•
	Tier 4		\$ 6,790	\$ 6,790	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	<u>\$</u> 112	\$ 783	\$ 783	•
	Each		\$ 183	\$	\$ 170	\$ 2.89	\$ 10.54			-	- 8	- \$
Public Service Easement Abandonment	Tier 3		\$ 3,537	\$ 3.		\$ 51.00	\$ 186.00	\$ 300	s -	1	\$ -	•
	Each			s		7.65	C	۔ ج	s s	'	1	، ج
f Survey (Add'I Sheets)	Each		\$ 162	_	\$ 150	2.55	\$ 9.30	۰ د	•	1	1	•
	Hourly			\$	-			-	•	•	1	
	Tier 4		5	\$	5,000	85.00		\$ 500	'	'	1	-
Restoration Plan, Hearing Required	Tier 6		s 11,790	\$ 11,790	\$ 10,000	\$ 170.00	\$ 620.00	\$ 1,000	۔ ع			- \$

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Fee Type (1) (2)	RMA Tier	Foot-notes	Total Upfront Fees for Customers w/ OWTS (Add'I fees may apply) (2)		Total Upfront Fees for Customers w/ Public Utilities (Add'I fees may apply) (2)	RMA Fee 2019	8 RMA File Storage Fee (1.70%)		RMA Tech Fee (6.20%)	RMA GPUI	County Counsel Fee 2019	EHB Fee EHB Fee 2019: OWTS, Well, or Water System		EHB Fee 2019: Public Utilities	CAO 2019
ad Abandonment	Tier 4		\$ 6,341	11	6,341	\$ 5,000	\$ 85.00	00 \$	310.00	\$ 500	\$	446 S	\$	1	\$
ad Name	Tier 3		\$ 3,537	87 S	3,537	\$ 3,000	s	51.00 \$	186.00	\$ 300		s	\$	•	s
enic Easement Amendment	Tier 3		\$ 3,983	33 \$	3,983	\$ 3,000	\$	51.00 \$	186.00	\$ 300	\$	446 S	\$	1	s
e Visit	Hourly		\$	s s	,	\$	69	\$	1	\$	\$	\$	\$	•	\$
ecial Event Processing (other permits may be required; fees captured	No Fee						÷	69 1	1		5	\$	<del>69</del> '	1	64
ough other permits)			÷	\$ 1		\$			-	\$	s	-	-		
ecific Plan (Deposit)	Tier 7		\$ 25,810	\$ 0	25,810	\$ 20,000	\$	00 \$	1,240.00	\$ 2,000	\$ 2,230	30 \$	- \$	1	\$
ecific Plan Amendments (Deposit)	Tier 7			0 \$	25,810	\$ 20,000	\$ 340.00	00 \$	1,240.00	\$ 2,000	\$ 2,230	30 \$	s	•	\$
ecific Plan Conformance Determination, Director's Approval, No Hearing Tier 2	Tier 2		\$ 1,848	8	1,848	\$ 1,000	\$ 17.00	00 \$	62.00	\$ 100	\$	869 \$	\$	'	\$
ecific Plan Conformance Determination, Hearing Required	Tier 4		\$ 6,564	54 S	6,564	\$ 5,000	\$	85.00 \$	310.00	\$ 500	\$	669 \$	\$	1	\$
bdivision - Minor or Standard - Amend Final Map (Deposit Required	Hourly		\$ 11,804	14 S	11,804	\$ 6,000	\$ 102.00	00 \$	372.00	\$ 600	\$ 2,230	30 \$ 2,500	\$ 00	2,500	69
odivision – Minor or Standard: Tentative / Vesting Tentative Map	Tier 7		\$ 28,310	0 \$	28,310	\$ 20,000	\$	340.00 \$	1,240.00	\$ 2,000	\$ 2,230	S	2,500 \$	2,500	\$
tendment; Tentative / Vesting Tentative Map Application; Tentative / sting Tentative Map Extension; Extension / Subdivision Improvement reservents Extension (Denovid)															
face Mine Annual Inspection (disturbed area <20 acres)	Tier 4		\$ 5,895	5 \$	5,895	\$ 5,000	S 85.00	30 \$	310.00	\$ 500	s	\$ -	\$	'	S
face Mine Annual Inspection (disturbed area >20 acres)	Tier 6		\$ 11,75	0 S	11,790	\$ 10,000	\$ 170.00	00 \$	620.00	\$ 1,000	\$	- \$		1	s
face Mine Reclamation Plan (Deposit)	Tier 7		\$ 24,562		24,562	\$ 20,000	\$ 3	00 \$	1,240.00	\$ 2,000	S	982 \$	- \$	1	S
nsfer of Development Credit	Tier 3		\$ 3,53		3,537	\$ 3,000	\$	20 S		\$ 300	છ	•	•	1	S
e Removal; (Director's Approval, Inland/Waiver, Coastal)	Tier 1		S 55		590	\$ 500	s	8.50 \$	_	\$ 50	S	\$	\$	•	s
Permit - General (Commercial/Industrial)	Tier 4		\$ 7,963	3 \$	7,180	\$ 5,000	s	85.00 S		\$ 500	S	502 \$ 1,5	,566 \$	783	s
Permit - General (Residential)	Tier 4		\$ 7,963	3 \$	6,554	s	64	85.00 \$	310.00	\$ 500				157	S
Permit - Oil & Gas (Deposit)	Tier 7		\$ 27,310	0	27,310	\$	\$	340.00 \$		\$ 2,000 \$		2,230 \$ 1,5	1,500 \$	1,500	s
riance	Tier 5		S 8,476	6 \$	8,476	s	\$	119.00 \$		\$ 700 \$		223 \$	\$	ľ	S
sted Rights Determination (Deposit)	Tier 7		\$ 25,810	0 \$	25,810	\$ 20,000	s	340.00 S		\$ 2,000	S	2,230 \$	\$	1	S
liamson Act - Farmland Security Zone Contract	Tier 4		S 7,679	9 \$	7,679	\$ 5,000	s	30 \$		\$ 500	\$	1,784 \$	\$	ľ	s
liamson Act Contract Amendment	Tier 4		S 6,118		6,118	\$ 5,000	s	\$ 00		\$ 500	s	223 \$	\$	•	S
re Change / Code Amendment (Deposit)	Tier 7		\$ 25,810	0 \$	25,810	\$ 20,000	\$ 340.00	00 \$	1,240.00	\$ 2,000	\$ 2,230	30 \$	s	'	s



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-050

Item No.31

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/19/2021

Version: 1

Current Status: RMA Administration -Consent Matter Type: BoS Agreement

a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610 and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to the term of March 10, 2020 to September 30, 2021;

b. Approve Amendment No. 2 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610, the Contract Administration Fee in the amount of \$892 is increased by \$446 to \$1,338, and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, with no change to the term of March 10, 2020 to September 30, 2021; and

c. Authorize the Director of Housing and Community Development or designee to execute Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

# **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610 and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to the term of March 10, 2020 to September 30, 2021;

b. Approve Amendment No. 2 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610, the Contract Administration Fee in the amount of \$892 is increased by \$446 to \$1,338, and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, with no change to the term of March 10, 2020 to September 30, 2021; and

c. Authorize the Director of Housing and Community Development or designee to execute

Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

# SUMMARY/DISCUSSION:

On May 12, 2020, the Board of Supervisors approved Professional Services Agreement (PSA) No. A-14699 with Rincon Consultants, Inc. (Rincon or Contractor) to prepare a Second Revised Environmental Impact Report (SREIR) on the Rancho Canada Village Subdivision 130-unit Project in accordance with court directives. Concurrently, the Board also approved Funding Agreement (FA) No. A-14700 with Rancho Canada Venture, LLC, Project Applicant, to fund the cost of preparation of a Second Revised EIR (SREIR). The SRDEIR has since been prepared and circulated for public review. The comment period on the SRDEIR closed on August 11, 2020.

On September 29, 2020, the Board of Supervisors approved Amendment No. 1 to the PSA between the County and Rincon to increase the Base Budget in the amount of \$66,597 by \$9,819 to \$76,416 and increase the Contingency Budget in the amount of \$10,000 by \$10,000 to \$20,000, for a total amount not to exceed \$96,416. Concurrently, Amendment No. 1 to the FA between the County and the Project Applicant was processed to increase the Base Budget in the amount of \$66,597 by \$9,819 to \$76,416, increase the Contract Administration Fee in the amount of \$446 by \$446 to \$892 (non-refundable), and to increase the Contingency Budget in the amount of \$10,000 by \$10,000 to \$20,000 to \$20,000, for a total amount not to exceed \$97,308, to cover the cost for the additional needed services from Rincon. These amendments did not change the term of March 10, 2020 to September 30, 2021 for both the PSA and FA.

Rincon's scope of work provided for the possibility of reevaluation and augmentation of their budget depending on the volume and detail of the comments received on the SRDEIR. Based on the comments received on the SRDEIR and the recent departure of County lead project staff, Rincon has requested additional funding of \$15,194 to continue preparation of responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff.

Of the Contingency Budget in the amount of \$20,000, \$19,930 has been expended to date for unanticipated but necessary graphics revisions and for more time than projected to prepare the SRDEIR. HCD staff requests an increase of \$5,000 to the Contingency Budget for a total amount not to exceed \$25,000 for additional possible unforeseen services which may arise from the existing tasks within the PSA and to save time in the processing of a future amendment to the PSA and FA.

Amendment No. 2 to the PSA between the County and Rincon would increase the Base Budget in the amount of \$76,416 by \$15,194 to \$91,610 and increase the Contingency Budget in the amount of \$20,000 by \$5,000 to \$25,000, for a total amount not to exceed \$116,610. Concurrently, the proposed Amendment No. 2 to the Funding Agreement between the County and the Project Applicant would increase the Base Budget in the amount of \$76,416 by \$15,194 to \$91,610, increase the Contract Administration Fee in the amount of \$892 by \$446 to \$1,338 (non-refundable), and increase the Contingency Budget in the amount of \$20,000 by \$5,000 to \$25,000, for a total amount

not to exceed \$117,948, to cover the cost of the additional services from Rincon. Neither amendment affects the term, which remains March 10, 2020 to September 30, 2021 for both the PSA and FA.

Staff is requesting Board approval of Amendment No. 2 to the PSA to allow Rincon to complete preparation of the SRFEIR and Board approval of Amendment No. 2 to the FA to require the Project Applicant to provide funds to the County for Rincon's services.

# OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved Amendment No. 2 to the PSA and Amendment No. 2 to the FA as to form.

# FINANCING:

Under Amendment No. 2 to the PSA, the County is obligated to pay for work completed by Rincon. Under Amendment No. 2 to the FA, the Project Applicant is obligated to pay the County for the increased cost of Rincon's services plus a flat fee to cover the cost of contract administration. Separate fees for County staff costs associated with the Project will be paid by the Project Applicant in accordance with the County of Monterey Land Use Fee Schedule included as Exhibit "2" to the FA. As such, there will be no impact to the General Fund.

# BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The amendments to the PSA with Rincon and FA with the Project Applicant will allow for completion of the SRFEIR for the Project and contribute to providing timely services to project applicants.

- X Economic Development Administration
- X Health & Human Services Infrastructure Public Safety

Prepared by:Mary Israel, Associate Planner, (831) 755-5183Reviewed by:Erik Lundquist, AICP, Chief of PlanningApproved by:Melanie Beretti, Housing & Special Programs Manager, HCD

The following Attachments are on file with the Clerk of the Board:

Attachment A - Amendment No. 2 to PSA Attachment B - Amendment No. 2 to FA Attachment C - Amendment No. 1 to PSA Attachment D - Amendment No. 1 to FA Attachment E - PSA Attachment F - FA



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-050

March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor Salinas, CA 93901

Item No.

Introduced: 2/19/2021 Version: 1 Current Status: Agenda Ready Matter Type: BoS Agreement

a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610 and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to the term of March 10, 2020 to September 30, 2021;

b. Approve Amendment No. 2 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610, the Contract Administration Fee in the amount of \$892 is increased by \$446 to \$1,338, and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, with no change to the term of March 10, 2020 to September 30, 2021; and

c. Authorize the Director of Housing and Community Development or designee to execute Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

# **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610 and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to the term of March 10, 2020 to September 30, 2021;

b. Approve Amendment No. 2 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610, the Contract Administration Fee in the amount of \$892 is increased by \$446 to \$1,338, and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, with no change to the term of March 10, 2020 to September 30, 2021; and

c. Authorize the Director of Housing and Community Development or designee to execute Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

# SUMMARY/DISCUSSION:

On May 12, 2020, the Board of Supervisors approved Professional Services Agreement (PSA) No. A-14699 with Rincon Consultants, Inc. (Rincon or Contractor) to prepare a Second Revised Environmental Impact Report (SREIR) on the Rancho Canada Village Subdivision 130-unit Project in accordance with court directives. Concurrently, the Board also approved Funding Agreement (FA) No. A-14700 with Rancho Canada Venture, LLC, Project Applicant, to fund the cost of preparation of a Second Revised EIR (SREIR). The SRDEIR has since been prepared and circulated for public review. The comment period on the SRDEIR closed on August 11, 2020.

On September 29, 2020, the Board of Supervisors approved Amendment No. 1 to the PSA between the County and Rincon to increase the Base Budget in the amount of \$66,597 by \$9,819 to \$76,416 and increase the Contingency Budget in the amount of \$10,000 by \$10,000 to \$20,000, for a total amount not to exceed \$96,416. Concurrently, Amendment No. 1 to the FA between the County and the Project Applicant was processed to increase the Base Budget in the amount of \$66,597 by \$9,819 to \$76,416, increase the Contract Administration Fee in the amount of \$446 by \$446 to \$892 (non-refundable), and to increase the Contingency Budget in the amount of \$10,000 by \$10,000 to \$20,000, for a total amount not to exceed \$97,308, to cover the cost for the additional needed services from Rincon. These amendments did not change the term of March 10, 2020 to September 30, 2021 for both the PSA and FA.

Rincon's scope of work provided for the possibility of reevaluation and augmentation of their budget depending on the volume and detail of the comments received on the SRDEIR. Based on the comments received on the SRDEIR and the recent departure of County lead project staff, Rincon has requested additional funding of \$15,194 to continue preparation of responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff.

Of the Contingency Budget in the amount of \$20,000, \$19,930 has been expended to date for unanticipated but necessary graphics revisions and for more time than projected to prepare the SRDEIR. HCD staff requests an increase of \$5,000 to the Contingency Budget for a total amount not to exceed \$25,000 for additional possible unforeseen services which may arise from the existing tasks within the PSA and to save time in the processing of a future amendment to the PSA and FA.

Amendment No. 2 to the PSA between the County and Rincon would increase the Base Budget in the amount of \$76,416 by \$15,194 to \$91,610 and increase the Contingency Budget in the amount of \$20,000 by \$5,000 to \$25,000, for a total amount not to exceed \$116,610. Concurrently, the proposed Amendment No. 2 to the Funding Agreement between the County and the Project Applicant would increase the Base Budget in the amount of \$76,416 by \$15,194 to \$91,610, increase the Contract Administration Fee in the amount of \$892 by \$446 to \$1,338 (non-refundable), and increase the Contingency Budget in the amount of \$20,000 by \$5,000 to \$25,000, for a total amount of \$20,000 by \$5,000 to \$25,000, for a total amount of \$20,000 by \$5,000 to \$25,000, for a total amount of \$20,000 by \$5,000 to \$25,000, for a total amount of \$20,000 by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, to cover the cost of the additional services from Rincon. Neither amendment

affects the term, which remains March 10, 2020 to September 30, 2021 for both the PSA and FA.

Staff is requesting Board approval of Amendment No. 2 to the PSA to allow Rincon to complete preparation of the SRFEIR and Board approval of Amendment No. 2 to the FA to require the Project Applicant to provide funds to the County for Rincon's services.

# OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved Amendment No. 2 to the PSA and Amendment No. 2 to the FA as to form.

## FINANCING:

Under Amendment No. 2 to the PSA, the County is obligated to pay for work completed by Rincon. Under Amendment No. 2 to the FA, the Project Applicant is obligated to pay the County for the increased cost of Rincon's services plus a flat fee to cover the cost of contract administration. Separate fees for County staff costs associated with the Project will be paid by the Project Applicant in accordance with the County of Monterey Land Use Fee Schedule included as Exhibit "2" to the FA. As such, there will be no impact to the General Fund.

# BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The amendments to the PSA with Rincon and FA with the Project Applicant will allow for completion of the SRFEIR for the Project and contribute to providing timely services to project applicants.

- X Economic Development Administration
- X Health & Human Services Infrastructure Public Safety

Prepared by:	Mary Israel, Associate Planner, (831) 755-5183	
Reviewed by:	Erik Lundquist, AICP, Chief of Planning	1.0
Approved by:	Melanie Beretti, Housing & Special Programs Manager, HCD	MB

The following Attachments are on file with the Clerk of the Board:

Attachment A - Amendment No. 2 to PSA Attachment B - Amendment No. 2 to FA Attachment C - Amendment No. 1 to PSA Attachment D - Amendment No. 1 to FA Attachment E - PSA Attachment F - FA

# Attachment A

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# AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN COUNTY OF MONTEREY AND RINCON CONSULTANTS, INC.

**THIS AMENDMENT NO. 2** to Professional Services Agreement No. A-14699 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Rincon Consultants, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties") as of the last date opposite the respective signatures.

**WHEREAS,** on May 14, 2020, CONTRACTOR entered into Professional Services Agreement No. A-14699 with County (hereinafter, "Agreement") to prepare a Second Revised Environmental Impact Report (hereinafter, "SREIR") for the Rancho Village Subdivision Project (hereinafter, "Project") for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$76,597, and concurrently, County approved a Funding Agreement with Rancho Canada Venture, LLC, the Project Applicant, to fund the services provided by CONTRACTOR; and

**WHEREAS**, the Second Revised Draft EIR (SRDEIR) has been prepared and circulated for public review. The comment period closed on August 11, 2020; and

**WHEREAS,** Agreement was amended by the Parties on September 30, 2020 (hereinafter, "Amendment No. 1", including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the amount by \$19,819 which resulted in a not to exceed amount of \$96,416 with no extension to the term; and

WHEREAS, based on the comments received on the SRDEIR, the CONTRACTOR needs additional funding to prepare responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff, as further set out in Exhibit A-2, attached hereto and incorporated herein by reference; and

**WHEREAS**, the Parties wish to further amend the Agreement to increase the amount by \$20,194 for a total amount not to exceed \$116,610 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by Amendment No. 1 and this Amendment No. 2; and

**WHEREAS**, the County is concurrently herewith processing an amendment to the Funding Agreement with the Project Applicant to provide funding for the services under this Amendment No. 2.

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 2, "Payments by County", to read as follows:

Amendment No. 2 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project Housing and Community Development (HCD) Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$116,610 County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, and A-2**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement as amended shall not exceed the sum of \$<u>116,610</u>.

- 2. Amend Paragraph 4, "Additional Provisions/Exhibits", to add "Exhibit A-2, Scope of Services/Payment Provisions".
- 3. All references to the Resource Management Agency in the Agreement or Amendment No. 1 shall be understood to mean Housing and Community Development (HCD) to the extent applicable.
- 4. Except as amended herein, all other terms and conditions of the Agreement and Amendment No. 1, including all Exhibits thereto, remain in full force and effect.
- 5. This Amendment No. 2 and the previous Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Professional Services Agreement as of the day and year written below:

COUNTY OF MONTEREY	CONTRACTOR*
By: Mike Novo, AICP	Rincon Consultants, Inc. Contractor's Business Name
Interim Director of Housing and Community Development	By: Junifer Haddow
Date:	By: JUMICY HAAAOW (Signature of Chain, President or Vice President)
	Its: Jennifer Haddow, Vice President (Print Name and Title)
	Date: 2/19/2021
	By: Richard Daulton
Approved as to Form Office of the County Counsel-Risk Manager	(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)
Leslie J. Girard, County Counsel-Risk Manager	
By: Wendy S. Strimling 57334509DB194BC Wendy S. Strimling Assistant County Counsel	Its: Richard Daulton, Corporate Secretary (Print Name and Title)
Date: 2/19/2021	Date:
Approved as to Fiscal Provisions	
By: Cary Cibonty D3834BFEC1D8449. Auditor/Controller	
Date: 2/19/2021	
Approved as to Indemnity and Insurance Provis Office of the County Counsel-Risk Manager	sions
By:	
Leslie J. Girard County Counsel-Risk Manager	
Date:	-
*INSTRUCTIONS: If PROJECT APPLICANT is a corporation, including no set forth above together with the signatures of two (2) specified officers per Ca is a Limited Liability Corporation (LLC), the full legal name of the LLC shall If PROJECT APPLICANT is a partnership, the full legal name of the partner who has authority to execute this Agreement on behalf of the partnership. If I individual shall set forth the name of the business, if any, and shall personally	Informa Corporations Code Section 315. If PROJECT APPLICATE be set forth above together with the signatures of two (2) managers. ship shall be set forth above together with the signature of a partner PROJECT APPLICANT is contracting in an individual capacity, the

Amendment No. 2 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project Housing and Community Development (HCD) Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$116,610

# To Agreement by and between County of Monterey, hereinafter referred to as "County" and Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

# A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (EIR) (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

Based on the extent of public comments received and the approach for responding, additional work effort will be required beyond what was anticipated in the Agreement with the CONTRACTOR. This Amendment No. 2 to the Agreement incorporates the additional staff time required for completion of the tasks below.

# **Task 6: Screencheck Second Final EIR**

Additional staff time to address County staff comments on the Responses to Comments/Administrative Second Final EIR. The estimate of staff hours to address comments is based on our preliminary review of staff comments.

# **Task 9: Project Management and Hearings**

Additional time for project management and coordination during preparation of the Screencheck Second Final EIR and Second Final EIR, as well as during staff report preparation to support staff in their work.

# **Assumptions:**

This Scope of Services incorporates the same assumptions as the original Exhibit A to the Agreement and Exhibit A-1 to Amendment No. 1.

# **B. PAYMENT PROVISIONS**

# **COMPENSATION/ PAYMENT**

County shall pay an increased amount not to exceed \$20,194.00 (\$15,194.00 for Base Budget and \$5,000.00 in Project Contingency) for the performance of <u>all things necessary</u> for or incidental to the performance of work as set forth in the Scope of Services as amended, for a total contract amount not to exceed \$116,610.00. CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

# **CONTRACTOR'S BILLING PROCEDURES**

Invoices under this Agreement as amended shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to <u>194-HCD-Finance@co.monterey.ca.us</u>:

County of Monterey Housing and Community Development (HCD) – Finance 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527

Page 1 of 2

Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project Housing and Community Development (HCD **895** 

# **B.1** Transfer from Project Contingency Account

Transfer of funding from the **Project Contingency Account totaling \$25,000.00** (\$5,000 added to the previous amount of \$20,000) requires the prior written approval of the HCD Director or designee and the Project Applicant.

Except as amended by Amendment No. 1 and Amendment No. 2, all other payment provisions of the Agreement remain in full force and effect.

							1/13/20:
Labor	Description →	Senior Prof I or II, Supervisor I, Sr Supervisor II, or Principal I	Senior Professional II	Professional III or IV	Associate I, II, or II; Professional 1 or II	Production Specialist	Clerical
Labor Cost	Hours	\$220	\$175	\$145	\$115	\$88	\$75
\$15,002	98	16	6	60	12	4	
\$3,800	24	8		12			4
	Labor Cost \$15,002	\$15,002 98	Labor Description →     III III III IIII IIII IIIIIIIIIIIIIII	Labor Description →         "I" = I Iso iso do no set iso do no set	Labor Description →         II         Discription         II         Discription         Discrestreaddinates         Discrestreaddinates <td>Labor Description →         "II" = III = 0 00 0000000000000000000000</td> <td>Labor Description →         Image: Construction of the construction of the</td>	Labor Description →         "II" = III = 0 00 0000000000000000000000	Labor Description →         Image: Construction of the

Printing and Reproduction	\$ 
Subtotal Additional Costs:	\$ - 33
Summary	
Professional Fees Subtotal	\$ 25,194
Direct Costs Subtotal	\$
TOTAL PROJECT BUDGET	\$ 25,194

Authorized Use of Existing Contingency Budget	\$10,000
Amendment No. 2 – Base Budget Dollar Amount Increase	\$15,194

Professional Services - are based on Rincon's standard fee schedule and labor classifications. The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, with the County's written approval, prior to the realcoation as long as the total contract price is not exceeded.

Page 2 of 2

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# Attachment B

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# AMENDMENT NO. 2 TO FUNDING AGREEMENT BETWEEN COUNTY OF MONTEREY AND RANCHO CANADA VENTURE, LLC

**THIS AMENDMENT NO. 2** to Funding Agreement No. A-14700 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County"), and Rancho Canada Venture, LLC (hereinafter, "PROJECT APPLICANT") (collectively the "Parties") is hereby entered into between the County and the PROJECT APPLICANT as of the last date opposite the respective signatures.

**WHEREAS,** PROJECT APPLICANT entered into Funding Agreement No. A-14700 with County (hereinafter, "Funding Agreement") to provide funding for the preparation of a Second Revised Environmental Impact Report (EIR) (hereinafter, "SREIR") for the Rancho Canada Village Subdivision Project (hereinafter, "Project") for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$77,043; and

**WHEREAS,** concurrent with approval of the Funding Agreement, the County approved a Professional Services Agreement ("PSA") with Rincon Consultants, Inc. (hereinafter, "Contractor") to prepare a SREIR; and

**WHEREAS,** The Second Revised Draft EIR (SRDEIR) has since been prepared and circulated for public review. The comment period closed on August 11, 2020; and

**WHEREAS,** the Funding Agreement was amended by the Parties on September 30, 2020 (hereinafter, "Amendment No. 1") to increase the funding to the County for the Contractor's services under the PSA by the amount of \$19,819, plus a contract administration fee, which resulted in a not to exceed amount of \$97,308, with no extension to the term; and

WHEREAS, based on the comments received on the SRDEIR, the Contractor needs additional funding to prepare responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff, and accordingly, concurrently herewith, the County and Contractor have entered into Amendment No. 2 to the PSA to increase the amount payable to Contractor, as further set out in Exhibit 1B attached hereto and incorporated herein by reference; and

**WHEREAS**, the Parties wish to further amend the Funding Agreement to increase the amount by \$20,194 for a total amount not to exceed \$116,610 to provide funding to the County for the Contractor's services under the PSA as amended and to add a contract administration fee for a total contract administration fee not to exceed \$1,338.

NOW, THEREFORE, the Parties agree to amend the Funding Agreement as follows:

1. Amend Paragraph 1, "<u>Deposits to Fund PSA and County Fee for Contract Administration</u>", to add the following:

1.b. <u>Deposits to Fund Amendment No. 2 to PSA and County Fee for Contract</u> <u>Administration.</u> PROJECT APPLICANT shall deposit an amount equal to the Contractor's additional Base Budget and the County's Contract Administration Fee. This amount totals \$15,640 and includes:

Contractor's Base Budget:	\$ 15	5,194
Office of the County Counsel		
Contract Administration Fee (non-refundable):	\$	446

PROJECT APPLICANT shall deposit a total amount of \$15,640 with County of Monterey Housing and Community Development (HCD) – Planning upon approval of this Amendment No. 2 to Agreement by the County of Monterey Board of Supervisors.

PROJECT APPLICANT's deposit of \$15,640 with County shall be a condition precedent to County's obligation under this Agreement as amended by this Amendment No. 2.

2. Amend Paragraph 2, "<u>Twenty Thousand Dollar (\$20,000) Project Contingency</u>", to read as follows:

<u>Twenty-five Thousand Dollar (\$25,000) Project Contingency.</u> An additional twenty-five thousand dollars (\$25,000) shall be included in the PSA between County and Contractor to cover contingencies. <u>This twenty-five thousand-dollar (\$25,000) Project Contingency amount</u> is subject to the procedures in *Section 3, Transfer from Project Contingency Account*, specified in "Exhibit A", *Scope of Services/Payment Provisions*, of the PSA, as amended by Amendment No. 2 to the PSA, which is attached hereto as Exhibit 1B and incorporated herein by reference.

3. Amend Paragraph 3, "<u>Maximum Budget Under Agreement</u>", to read as follows:

<u>Maximum Budget Under Agreement.</u> The maximum amount which may be charged to PROJECT APPLICANT under this Agreement as amended by this Amendment No. 2 is \$117,948, which consists of the following amounts:

\$117,948
\$1,338 \$25,000
\$91,610

4. Amend the first sentence of Paragraph 4 to read as follows:

Within thirty (30) days after the end of each quarter, County shall provide quarterly progress reports to the PROJECT APPLICANT showing Contractor's charges from the

Amendment No. 2 to Funding Agreement No. A-14700 Rancho Canada Venture, LLC Second Revised DEIR for the Rancho Canada Village Subdivision Project Housing and Community Development (HCD) Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$117,948.00 prior quarter associated with completion of task(s) as specified in "Exhibits A, A-1, and A-2" of the PSA as amended (Scope of Services/Payment Provisions for the Project).

5. Amend the first sentence of Paragraph 5, "<u>Engagement of Contractor</u>", to read as follows:

This Agreement as amended is based on County engaging Contractor in accordance with the PSA between County and Contractor and Amendment No. 1 and Amendment No. 2 to the PSA, attached hereto respectively as Exhibits "1", "1A", and "1B"and incorporated by this reference.

6. Amend the first sentence of Paragraph 6.a., "<u>Contractor</u>", of Paragraph 6, "<u>Payments to</u> <u>Contractor and County</u>", to read as follows:

Contractor's invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT in the amount of \$91,610.

7. Amend the first sentence of Paragraph 6.b., "<u>County Contract Administration Fee</u>", of Paragraph 6, "<u>Payments to Contractor and County</u>", to read as follows:

The County Contract Administration Fee, in an amount not to exceed \$1,338, shall be paid by PROJECT APPLICANT in accordance with this Agreement as amended.

8. Amend the first sentence of Paragraph 6.c., "<u>Project Contingency</u>", of Paragraph 6, "<u>Payments to Contractor and County</u>", to read as follows:

An additional not to exceed amount of twenty-five thousand dollars (\$25,000) in Project Contingency covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of the Parties, pursuant to Section 3, Transfer from Project Contingency Account, of "Exhibit A", "Exhibit A-1", and Section B.1 of "Exhibit A-2" of the PSA as amended.

- 9. All references to the Resource Management Agency in the Agreement or Amendment No. 1 shall be understood to mean Housing and Community Development (HCD) to the extent applicable.
- 10. Except as amended herein, all other terms and conditions of the Agreement and Amendment No. 1, including all Exhibits thereto, remain in full force and effect.
- 11. This Amendment No. 2 and the previous Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Funding Agreement as of the day and year written below:

COUNTY OF MONTEREY	PROJ	ECT APPLICANT*
By:		Rancho Canada Venture, LLC
Mike Novo, AICP Interim Director of Housing and Community Development		D
Date:	By:	(Signature of Chair, President or Vice President)
	Its:	R. Alan Williams, Sole Manager (Print Name and Title)
	Date:	2-19-21
Approved as to Form Office of the County Counsel-Risk Manager Leslie J. Girard, County Counsel-Risk Manager	By:	(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst Treasurer)
By: Wundy S. Strimling Wendy S. Strimling Assistant County Counsel	Its:	(Print Name and Title)
Date: 2/19/2021	Date:	
Approved as to Fiscal Provisions		
By: Gary Gibbury Dassiere C 10249 Auditor/Controller		
Date: 2/19/2021		
Approved as to Indemnity and Insurance Provisi Office of the County Counsel-Risk Manager	ons	
By: Leslie J. Girard County Counsel-Risk Manager		
Date:		
NSTRUCTIONS: If PROJECT APPLICANT is a corporation, including non- t forth above together with the signatures of two (2) specified officers per Calif a Limited Liability Corporation (LLC), the full legal name of the LLC shall be PROJECT APPLICANT is a partnership, the full legal name of the partnersh ho has authority to execute this Agreement on behalf of the partnership. If PR dividual shall set forth the name of the business, if any, and shall personally si	ornia Corporation set forth above t ip shall be set for OJECT APPLICA	s Code Section 313. If PROJECT APPLICANT ogether with the signatures of two (2) managers th above together with the signature of a partner ANT is contracting in an individual capacity, the
Ar	nendment No.	2 to Funding Agreement No. A-14700 Rancho Canada Venture, LLC
Second Revised DEI	R for the Ranc	tho Canada Village Subdivision Project

Page 4 of 4

Housing and Community Development (HCD) Term: March 10, 2020 – September 30, 2021

Not to Exceed: \$117,948.00

# **EXHIBIT 1B**

AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN RINCON CONSULTANTS, INC. AND THE COUNTY OF MONTEREY TO PROVIDE A SECOND REIR FOR THE RANCHO CAÑADA VILLAGE SUBDIVISION PROJECT

## AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN COUNTY OF MONTEREY AND RINCON CONSULTANTS, INC.

**THIS AMENDMENT NO. 2** to Professional Services Agreement No. A-14699 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Rincon Consultants, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties") as of the last date opposite the respective signatures.

**WHEREAS,** on May 14, 2020, CONTRACTOR entered into Professional Services Agreement No. A-14699 with County (hereinafter, "Agreement") to prepare a Second Revised Environmental Impact Report (hereinafter, "SREIR") for the Rancho Village Subdivision Project (hereinafter, "Project") for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$76,597, and concurrently, County approved a Funding Agreement with Rancho Canada Venture, LLC, the Project Applicant, to fund the services provided by CONTRACTOR; and

**WHEREAS**, the Second Revised Draft EIR (SRDEIR) has been prepared and circulated for public review. The comment period closed on August 11, 2020; and

**WHEREAS,** Agreement was amended by the Parties on September 30, 2020 (hereinafter, "Amendment No. 1", including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the amount by \$19,819 which resulted in a not to exceed amount of \$96,416 with no extension to the term; and

WHEREAS, based on the comments received on the SRDEIR, the CONTRACTOR needs additional funding to prepare responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff, as further set out in Exhibit A-2, attached hereto and incorporated herein by reference; and

**WHEREAS**, the Parties wish to further amend the Agreement to increase the amount by \$20,194 for a total amount not to exceed \$116,610 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by Amendment No. 1 and this Amendment No. 2; and

**WHEREAS**, the County is concurrently herewith processing an amendment to the Funding Agreement with the Project Applicant to provide funding for the services under this Amendment No. 2.

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 2, "Payments by County", to read as follows:

Amendment No. 2 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project Housing and Community Development (HCD) Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$116,610 County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, and A-2**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement as amended shall not exceed the sum of \$<u>116,610</u>.

- 2. Amend Paragraph 4, "Additional Provisions/Exhibits", to add "Exhibit A-2, Scope of Services/Payment Provisions".
- 3. All references to the Resource Management Agency in the Agreement or Amendment No. 1 shall be understood to mean Housing and Community Development (HCD) to the extent applicable.
- 4. Except as amended herein, all other terms and conditions of the Agreement and Amendment No. 1, including all Exhibits thereto, remain in full force and effect.
- 5. This Amendment No. 2 and the previous Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Professional Services Agreement as of the day and year written below:

COUNTY OF MONTEREY	CONI	RACTOR*
By:		Rincon Consultants, Inc.
Mike Novo, AICP Interim Director of Housing and Community Development		Contractor's Business Name
Date:	By:	
		(Signature of Chair, President or Vice President)
	Its:	
		(Print Name and Title)
	Date:	
	By:	
Approved as to Form Office of the County Counsel-Risk Manager Leslie J. Girard, County Counsel-Risk Manager	·	(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)
By:	Its:	
Wendy S. Strimling Assistant County Counsel	_	(Print Name and Title)
Date:	Date:	
Approved as to Fiscal Provisions		
By:		
Auditor/Controller	-	
Date:	_	
Approved as to Indemnity and Insurance Provis Office of the County Counsel-Risk Manager	sions	
By:		
Leslie J. Girard County Counsel-Risk Manager	_	
Date:	_	
	-	

Amendment No. 2 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project Housing and Community Development (HCD) Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$116,610

<sup>\*</sup>INSTRUCTIONS: If PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnership, the full legal 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 PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

## To Agreement by and between County of Monterey, hereinafter referred to as "County" and Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

## A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (EIR) (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

Based on the extent of public comments received and the approach for responding, additional work effort will be required beyond what was anticipated in the Agreement with the CONTRACTOR. This Amendment No. 2 to the Agreement incorporates the additional staff time required for completion of the tasks below.

## **Task 6: Screencheck Second Final EIR**

Additional staff time to address County staff comments on the Responses to Comments/Administrative Second Final EIR. The estimate of staff hours to address comments is based on our preliminary review of staff comments.

## **Task 9: Project Management and Hearings**

Additional time for project management and coordination during preparation of the Screencheck Second Final EIR and Second Final EIR, as well as during staff report preparation to support staff in their work.

### **Assumptions:**

This Scope of Services incorporates the same assumptions as the original Exhibit A to the Agreement and Exhibit A-1 to Amendment No. 1.

## **B. PAYMENT PROVISIONS**

## **COMPENSATION/ PAYMENT**

County shall pay an increased amount not to exceed \$20,194.00 (\$15,194.00 for Base Budget and \$5,000.00 in Project Contingency) for the performance of <u>all things necessary</u> for or incidental to the performance of work as set forth in the Scope of Services as amended, for a total contract amount not to exceed \$116,610.00. CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

## **CONTRACTOR'S BILLING PROCEDURES**

Invoices under this Agreement as amended shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to <u>194-HCD-Finance@co.monterey.ca.us</u>:

County of Monterey Housing and Community Development (HCD) – Finance 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527

Page 1 of 2

Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project Housing and Community Development (HCD **908** 

## **B.1** Transfer from Project Contingency Account

Transfer of funding from the **Project Contingency Account totaling \$25,000.00** (\$5,000 added to the previous amount of \$20,000) requires the prior written approval of the HCD Director or designee and the Project Applicant.

Except as amended by Amendment No. 1 and Amendment No. 2, all other payment provisions of the Agreement remain in full force and effect.

							1/13/20:		
Labor	Description →	Senior Prof I or II, Supervisor I, Sr Supervisor II, or Principal I	Senior Professional II	Professional III or IV	Associate I, II, or II; Professional 1 or II	Production Specialist	Clerical		
Labor Cost Hours		Labor Cost Hours \$		\$220 \$175		\$145	\$115	\$88	\$75
\$15,002	98	16	6	60	12	4			
\$3,800	24	8		12			4		
	Labor Cost \$15,002	\$15,002 98	Labor Description →     III III III IIII IIII IIIIIIIIIIIIIII	Labor Description →         "i = i = i = i = i = i = i = i = i = i =	Labor Description →         II - 11 - 12 - 12 - 12 - 12 - 12 - 12 -	Labor Description →         "II" = III to IIII to III to IIII to IIIIIII to IIIIIII to IIIIIIII	Labor Description +         Image: Construction of the		

Printing and Reproduction	\$ -
Subtotal Additional Costs:	\$ 135
Summary	
Professional Fees Subtotal	\$ 25,194
Direct Costs Subtotal	\$
TOTAL PROJECT BUDGET	\$ 25,194

Authorized Use of Existing Contingency Budget	\$10,000
Amendment No. 2 – Base Budget Dollar Amount Increase	\$15,194

Professional Services - are based on Rincon's standard fee schedule and labor classifications. The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, with the County's written approval, prior to the realcoation as long as the total contract price is not exceeded.

## Attachment C

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Legistar File ID No. A 20-400 Agenda Item No. 36



## Monterey County Board of Supervisors

**Board Order** 

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Jane Parker to approve Consent Calendar Item Numbers 15 through 37.

a. Agreement No.: A-14699 / Approve Amendment No. 1 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$66,597 is increased by \$9,819 to \$76,416 and the Contingency Budget in the amount of \$10,000 is increased by \$10,000 to \$20,000, for a total amount not to exceed \$96,416, with no extension to the term of March 10, 2020 to September 30, 2021;

b. **Agreement No.:** A-14700 / Approve Amendment No. 1 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$66,597 is increased by \$9,819 to \$76,416, the Contract Administration Fee in the amount of \$446 is increased by \$446 to \$892, and the Contingency Budget in the amount of \$10,000 is increased by \$10,000 to \$20,000, for a total amount not to exceed \$97,308, with no extension to the term of March 10, 2020 to September 30, 2021; and

c. Authorize the Resource Management Agency Director or designee to execute Amendment No. 1 to Professional Services Agreement No. A-14699, Amendment No. 1 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

PASSED AND ADOPTED on this 29th day of September 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting September 29, 2020.

Dated: September 29, 2020 File ID: A 20-400 Agenda Item No.: 36 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Jdel G. Pablo, Deputy

## AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN COUNTY OF MONTEREY AND RINCON CONSULTANTS, INC.

**THIS AMENDMENT NO. 1** to Professional Services Agreement No. A-14699 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Rincon Consultants, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties") as of the last date opposite the respective signatures.

WHEREAS, on May 14, 2020, CONTRACTOR entered into Professional Services Agreement No. A-14699 with County (hereinafter, "Agreement") to prepare a Second Revised Environmental Impact Report (hereinafter, "SREIR") for the Rancho Village Subdivision Project (hereinafter, "Project") for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$76,597, and concurrently, County approved a Funding Agreement with Rancho Canada Venture, LLC, the Project Applicant, to fund the services provided by CONTRACTOR; and

WHEREAS, the Second Revised Draft EIR (SRDEIR) has since been prepared and circulated for public review. The comment period closed on August 11, 2020; and

WHEREAS, the CONTRACTOR's scope of work under the Agreement provided for the possibility of reevaluation and augmentation of their budget depending on the volume and detail of the comments received on the SRDEIR; and

WHEREAS, based on the comments received on the SRDEIR, the CONTRACTOR needs additional funding to prepare responses to comments, produce the Second Revised Final EIR (SRFEIR), and continue coordination with County staff, as further set out in Exhibit A-1, attached hereto and incorporated herein by reference; and

WHEREAS, the Parties wish to amend the Agreement to increase the amount by \$19,819 for a total amount not to exceed \$96,416 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 1; and

WHEREAS, the County is concurrently herewith processing an amendment to the Funding Agreement with the Project Applicant to provide funding for the services under this Amendment No. 1.

Attendment No. 1 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Villago Subdivision Project RMA – Planning Term: March 10, 2020 – September 30, 2021 Not to Exceed; \$96,416.00

Page 1 of 3

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NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 2, "Payments by County", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A and A-1, 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  $\frac{96,416}{6}$ .

- 2. Amend Paragraph 4, "Additional Provisions/Exhibits", to add "Exhibit A-1, Scope of Services/Payment Provisions".
- 3. All written reports required under this Agreement as amended shall be delivered to the following individual:

Mary Israel, Associate Planner County of Monterey Resource Management Agency - Land Use & Community Development 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527 Email: israelm@co.monterey.ca.us

- 4. All other terms and conditions of the Agreement remain unchanged and in full force.
- 5. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 1 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Runcho Canada Village Subdivision Project RMA – Planning Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$96,416.00 IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Professional Services Agreement as of the day and year written below:

COUNTY OF MONTEREY	CON	TRACTOR*
By: CARA		Rincon Consultants, Inc.
Carl P. Holm, AICP RMA Director		Contractor's Business Name
Date: 9/30/2020	By:	(Signature of Chair, President or Vice President)
	Its:	Stephen Svete, Executive Vice President (Print Name and Title)
	Date:	September 11, 2020
Approved as to Form		Gree Aprily
Office of the County Counsel	By:	(Cimples of Complete Lock Complete Comp
Leslie L. Girard, County Counsel		(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)
By: Brian P. Brians B162D1AF864475rdy S. Strimling Brian P. Brigg	Its:	Richard Daulton, Corporate Secretary
Assistant County Counsel Deputy County Co	s unsel	(Print Name and Title)
Date: 9/16/2020	Date:	September 14, 2020
Approved.as.todEiscal Provisions		
By: Gary Giboney		
Date: 9/16/2020		
Approved as to Indemnity and Insurance Provisio Office of the County Counsel-Risk Manager Leslie J. Girard, County Counsel-Risk Manager	ns	
By:		
Risk Management		
Date:		
*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit together with the signatures of two (2) specified officers per California Co Corporation (LLC), the full legal name of the LLC shall be set forth above partnership, the full legal name of the partnership shall be set forth above Agreement on behalf of the partnership. If CONTRACTOR is contracting in a if any, and shall personally sign the Agreement or Amendment to said Agree	orporations together wi together wi an individua	Code Section 313. If CONTRACTOR is a Limited Liability th the signatures of two (2) managers. If CONTRACTOR is a th the signature of a partner who has authority to execute this

Amendment No. 1 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project RMA – Planning Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$96,416.00

#### To Agreement by and between County of Monterey, hereinafter referred to as "County" and Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

#### A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (EIR) (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

Based on the extent of public comments received and the approach for responding, additional work effort will be required beyond what was anticipated in the Agreement with the CONTRACTOR. This Amendment No. 1 to the Agreement incorporates the additional staff time required for completion of the tasks below.

## Task 5: Administrative Second Revised Final EIR

## (Additional Responses to Comments)

The March 10, 2020 Agreement scope assumed that "most comment letters will be the same or similar to comments that were received on the certified EIR" but anticipated "receipt of at least one (1) lengthy legal comment." The level of effort was estimated at eighty (80) professional staff hours; however, as noted in the Agreement, "The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period."

Based on the comments received and consultation with County staff, CONTRACTOR estimates the need for ninety-five (95) professional staff hours to respond to comments, for an increase of fifteen (15) professional staff hours. This estimate includes assumptions about County contributions to the preparation of responses to comments. If CONTRACTOR is required to do work currently assumed to be done by County staff, additional budget will be required.

### Deliverable(s): Administrative Second Revised Final EIR

## Task 7: Second Revised Final EIR

### (Additional Final EIR Production)

The typical County format for a Final EIR includes an Introduction, Responses to Comments, and Revisions to the Draft EIR in a stand-alone document; Draft EIR sections are not revised and reproduced in full. Per direction provided by County staff, County has requested preparation of a full Final EIR with all Draft EIR sections, and a new Responses to Comments chapter. In this scenario, the existing strikethrough and underline in the Draft EIR would be removed manually, and any edits completed in response to public comments would then be shown in strikethrough and underline. This scope amendment includes professional and production staff time to complete this formatting. In addition, due to the increased length of the Final EIR under this scenario, an estimated \$600.00 additional budget would be required for printing.

Page 1 of 6

Deliverable(s): Second Revised Final EIR as Introduction, Responses to Comments, and Revisions to the Draft EIR in a stand-alone document and also with edits completed in response to public comments shown in strikethrough and underline.

## Task 9: Project Management and Hearings

## (Additional Project Management)

Task 9, Project Management and Hearings, from the March 10, 2020 Agreement scope of work assumed attendance at up to three (3) conference calls with County staff during the course of this Agreement; more coordination calls have occurred, and as such, the management budget is nearly expended. Therefore, this budget augmentation request includes additional time for attendance at up to three (3) additional conference calls (1.5-hours each) and ongoing coordination and management of the Final EIR.

## Assumptions:

This Scope of Services incorporates the same assumptions as the original Exhibit A to the Agreement.

## **Deliverables:**

CONTRACTOR shall produce the deliverables as noted in the above-mentioned tasks and in the original Exhibit A to the Agreement. All written reports required under this Agreement as amended herein shall be delivered as noted to the following individual and in accordance with the Project Schedule which follows:

Mary Israel, Associate Planner County of Monterey Resource Management Agency - Land Use & Community Development 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527 Email: israelm@co.monterey.ca.us

### **B. PAYMENT PROVISIONS**

### **COMPENSATION/ PAYMENT**

County shall pay an increased amount not to exceed <u>\$19,819.00</u> (<u>\$9,819.00</u> for Base Budget plus <u>\$10,000.00 in Project Contingency</u>) for the performance of <u>all things necessary</u> for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

During this Agreement as herein amended, County and CONTRACTOR agree that CONTRACTOR shall only be reimbursed for mileage according to the Internal Revenue Service standard mileage rate and not for travel expenses.

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

## **CONTRACTOR'S BILLING PROCEDURES**

Invoices for deliverables under the Agreement as herein amended shall be submitted when the work product is complete and shall identify the document or work product being delivered. Invoices for Page 2 of 6

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Rincon Consultants, Inc.
Second Revised EIR for the Rancho Canada Village Subdivision Project
RMA - Planning
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services performed in conjunction with a deliverable may be billed monthly (by the tenth day of the month) and will be considered on a time and materials basis. All invoices shall include the following and shall be submitted with the Invoice Coversheet (provided as Attachment B-1 in Exhibit A-1 of this Agreement):

#### 1. Invoice Coversheet

	onsultants, Inc. añada Village Subdivi	sion Project Second Revised EIR	Date: Invoice No		
Original A Original A Continger	Agreement Amount:	March 10, 2020 to September 30, 20. \$76,597.00 (\$66,597.00 Base 1	21 Budget plus	\$10,000.00	Project
Amendmen	nt No. 1: \$ 19,81	9.00 (\$ 9,819.00 Base Budget plus \$10,000	0.00 Project Contin	igency)	
This Invoi	ice:				
Task 5:	\$2,550.00	Administrative Second Revised Fi	inal EIR		
Task 7:	\$2,869.00	Second Revised Final EIR	-		
Task 9:	\$3,800.00	<b>Project Management and Hearing</b>	28		
		Direct Cost Summary	-		
	\$600.00	Printing and Reproduction Costs	-		
	\$9,819.00	GRA	ND TOTAL:		
		REMAINING	BALANCE:		

## Approved as to Work/Payment: Mary Israel, Associate Planner

Date

Payment shall be based upon satisfactory acceptance of each work product/deliverable.

Invoices under this Agreement as amended shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>:

County of Monterey Resource Management Agency – Finance Division 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement as amended should be directed to the RMA Finance Division at (831) 755-4800 or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>.

County may, in its sole discretion, terminate the Agreement as amended or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement as amended.

Page 3 of 6

No payments in advance or in anticipation of services or supplies to be provided under this Agreement as amended shall be made by County.

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.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

#### 2. Invoice Detail

Each invoice for deliverables shall indicate percentage of completion of the task and include the invoice amount in association with the <u>actual</u> deliverables performed and shall be within the "Not to Exceed" budget amount allocated for the Project.

Each invoice for services performed shall indicate the hours worked by task and by staff member, with the corresponding billing rates. Payment of these services will be based on the documentation provided by CONTRACTOR and shall be within the "Not to Exceed" budget amount allocated for the service or services performed.

Any subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

The RMA Director or designee may request documentation of the number of hours worked by task and by staff member, with the corresponding billing rates and/or the subconsultant costs. The information will be used to complete the file and to ensure proper payment for deliverables/services.

#### 3. Transfer from Project Contingency Account

Transfer of funding from the Project Contingency Account (total Agreement Project Contingency of \$20,000.00) requires the prior written approval of the RMA Director or designee and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the RMA Director and/or Project Planner, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;
- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five (5) working days of receipt of the recommendation, the RMA Director and/or Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the RMA Director or designee. Within tea (10) working days thereafter, the RMA Director or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant and CONTRACTOR.

Page 4 of 6

Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project RMA - Planning i

Unless the recommended transfer is denied by the RMA Director or designee, the RMA Director or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant's written approval by the RMA Director or designee, the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.

Cost Estimate (without Co	ontinger	ncy)		0,000	Peterson and an and				8/24/202
		Labó	Description →	Senior Prof I or 1, Supervisor 1, Sr Supervisor 1, or Principal 1	Professional II or N	Associate 1.4. or It Professional 1 or 8	Production Specialist	GIS/CADD Specialist I or 8	Centcol
r - du	Labor Cost	Direct Expense	Hours	\$220	\$145	\$115	\$8.8	\$1.25	\$75
dsk3	The second second second								
Task 5: Administrative Final EIR (Additional Responses to Comments)	\$2,550	SO	15	5	10				
Fasks Fask 5: Administrative Final EIR (Additional Responses to Comments) Fask 7: Final EIR (Formatting/Production) Fask 9: Project Management and Hearings	\$2,550 \$2,869	and the second division of the second divisio	15 25	5 2	10	15	8		

Printing and Reproduction		5	500
	Subtotal Additional Costs:	\$	600
Summary	NET TA A MARATUR DE LA COMUNICIPATION DE LA COMUNICIPATION DE LA COMUNICIPATION DE LA COMUNICIPATION DE LA COMU	1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.	111 1.91. 1
Professional Fees Subtotal		5	9,219
Direct Costs Subtotal		5	600
	TOTAL BROUNDED BUILDERT		-

Professional Services - are based on Rincon's standard fee schedule and labor classifications. The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, with the County's written approval, prior to the realcoation as long as the total contract price is not exceeded.

## **ATTACHMENT B-1**

## **Invoice Coversheet**

	'onsultants, Ir Cañada Villag	c. Date: e Subdivision Project Second Revised EIR Invoice No
Original A Original A Contingen	Agreement Am	m: March 10, 2020 to September 30, 2021 count: \$76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project
Amendmen	ut No. 1: \$	19,819.00 (\$ 9,819.00 Base Budget plus \$10,000.00 Project Contingency)
This Invo	ice:	
Task 5:	\$2,550.00	Administrative Second Revised Final EIR
Task 7:	\$2,869.00	Second Revised Final EIR
Task 9:	\$3,800.00	Project Management and Hearings
		Direct Cost Summary
	\$600.00	Printing and Reproduction Costs
	\$9,819.00	GRAND TOTAL:
		REMAINING BALANCE:

Approved as to Work/Payment: Mary Israel, Associate Planner

Date

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Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project RMA - Planning

## Attachment D

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Legistar File ID No. A 20-400 Agenda Item No. 36



## Monterey County Board of Supervisors

**Board Order** 

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Jane Parker to approve Consent Calendar Item Numbers 15 through 37.

a. Agreement No.: A-14699 / Approve Amendment No. 1 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$66,597 is increased by \$9,819 to \$76,416 and the Contingency Budget in the amount of \$10,000 is increased by \$10,000 to \$20,000, for a total amount not to exceed \$96,416, with no extension to the term of March 10, 2020 to September 30, 2021;

b. Agreement No.: A-14700 / Approve Amendment No. 1 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$66,597 is increased by \$9,819 to \$76,416, the Contract Administration Fee in the amount of \$446 is increased by \$446 to \$892, and the Contingency Budget in the amount of \$10,000 is increased by \$10,000 to \$20,000, for a total amount not to exceed \$97,308, with no extension to the term of March 10, 2020 to September 30, 2021; and

c. Authorize the Resource Management Agency Director or designee to execute Amendment No. 1 to Professional Services Agreement No. A-14699, Amendment No. 1 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

PASSED AND ADOPTED on this 29th day of September 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and AdamsNOES: NoneABSENT: None(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting September 29, 2020.

Dated: September 29, 2020 File ID: A 20-400 Agenda Item No.: 36

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California Jdel G. Pablo, Deputy

## AMENDMENT NO. 1 TO FUNDING AGREEMENT BETWEEN COUNTY OF MONTEREY AND RANCHO CANADA VENTURE, LLC

THIS AMENDMENT NO. 1 to Funding Agreement No. A-14700 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County"), and Rancho Canada Venture, LLC (hereinafter, "PROJECT APPLICANT") is hereby entered into between the County and the PROJECT APPLICANT (collectively, the County and PROJECT APPLICANT are referred to as the "Parties") as of the last date opposite the respective signatures.

WHEREAS, PROJECT APPLICANT entered into Funding Agreement No. A-14700 with County (hereinafter, "Funding Agreement") to provide funding for the preparation of a Second Revised Environmental Impact Report (EIR) (hereinafter, "SREIR") for the Rancho Canada Village Subdivision Project (hereinafter, "Project") for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$77,043; and

WHEREAS, PROJECT APPLICANT previously applied to County for land use entitlements for the Project, and in December 2016, County certified an EIR for the Project and approved the 130- unit alternative; and

WHEREAS, in January 2017, the Carmel Valley Association (CVA) filed a lawsuit (Carmel Valley Association, Inc., v. County of Monterey (Monterey Superior Court Case No. 17CV000131)) on that approval. The Monterey Superior Court issued a Peremptory Writ of Mandate and judgment in July 2018, holding that that the EIR's Project Description and alternatives analysis were legally inadequate under the California Environmental Quality Act (CEQA); and

WHEREAS, concurrent with approval of the Funding Agreement, the County approved a Professional Services Agreement ("PSA") with Rincon Consultants, Inc. (hereinaßer, "Contractor") to prepare a SREIR in accordance with the Peremptory Writ of Mandate and court judgment; and

WHEREAS, The Second Revised Draft EIR (SRDEIR) has since been prepared and circulated for public review. The comment period closed on August 11, 2020; and

WHEREAS, based on the comments received on the SRDEIR, the Contractor needs additional funding to prepare responses to comments, produce the Second Rovised Final EIR (SRFEIR), and continue coordination with County staff, and accordingly, concurrently herewith, the County and Contractor have entered into Amendment No. 1 to the PSA to increase the amount payable

to Contractor, as further set out in Exhibit 1A, attached hereto and incorporated herein by reference; and

WHEREAS, the Parties wish to amend the Funding Agreement to increase the amount by \$19,819 for a total amount not to exceed \$96,416 to provide funding to the County for the Contractor's services under the PSA as amended plus a contract administration fee.

NOW, THEREFORE, the Parties agree to amend the Funding Agreement as follows:

- 1. Amend Paragraph 1, "<u>Deposits to Fund PSA and County Fee for Contract</u> <u>Administration</u>", to add the following:
  - 1.a. Deposits to Fund Amendment No. 1 to PSA and County Fee for Contract Administration. PROJECT APPLICANT shall deposit an amount equal to the Contractor's additional Base Budget and the County's Contract Administration Fee. This amount totals \$10,265 and includes:

Contractor's Base Budget:\$ 9,819Office of the County Counsel\*Contract Administration Fee (non-refundable):\$ 446

PROJECT APPLICANT shall deposit a total amount of \$10,265 with County of Monterey Resource Management Agency (RMA) – Land Use and Community Development (Planning) upon approval of this Amendment No. 1 to Agreement by the County of Monterey Board of Supervisors, currently scheduled for September 29, 2020.

PROJECT APPLICANT's deposit of \$10,265 with County shall be a condition precedent to County's obligation under this Agreement as amended by this Amendment No. 1.

2. Amend Paragraph 2, "<u>Ten Thousand Dollar (\$10,000) Project Contingency</u>", to read as follows:

Twenty Thousand Dollar (\$20,000) Project Contingency. An additional twenty thousand dollars (\$20,000) shall be included in the PSA between County and Contractor to cover contingencies. This twenty thousand-dollar (\$20,000) Project Contingency amount is subject to the procedures in Section 3, Transfer from Project Contingency Account, specified in "Exhibit A", Scope of Services/Payment Provisions, of the PSA, as amended by Amendment No. 1 to the PSA, which is attached hereto as Exhibit 1A and incorporated herein by reference.

Amendment No. 1 to Funding Agreement No. A-14700 Rancho Canada Venture, LLC Second Revised DEIR for the Rancho Canada Village Subdivision Project RMA – Planning Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$97,308,00

Amend Paragraph 3, "Maximum Budget Under Agreement", to read as follows: 3.

Maximum Budget Under Agreement. The maximum amount which may be charged to PROJECT APPLICANT under this Agreement as amended by this Amendment No. 1 is \$97,308, which consists of the following amounts:

Contractor's Base Budget: Office of the County Counsel	\$76,416
Contract Administration Fee (non-refundable): Project Contingency:	\$    892 <u>\$20,000</u>
Maximum Charge Under Agreement:	<u>\$97,308</u>

Amend the first sentence of Paragraph 4 to read as follows: 4.

> Within thirty (30) days after the end of each quarter, County shall provide quarterly progress reports to the PROJECT APPLICANT showing Contractor's charges from the prior quarter associated with completion of task(s) as specified in "Exhibits A and A-1" of the PSA as amended (Scope of Services/Payment Provisions for the Project).

Amend the first sentence of Paragraph 5, "Engagement of Contractor", to read as follows: 5.

This Agreement as amended is based on County engaging Contractor in accordance with the PSA between County and Contractor and Amendment No. 1 to the PSA, attached hereto respectively as Exhibits "1" and "1A" and incorporated by this reference.

6. Amend the first sentence of Paragraph 6.a., "Contractor", of Paragraph 6, "Payments to Contractor and County", to read as follows:

Contractor's invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT in the amount of \$76,416.

7. Amend the first sentence of Paragraph 6.b., "County Contract Administration Fee", of Paragraph 6, "Payments to Contractor and County", to read as follows:

The County Contract Administration Fee, in an amount not to exceed \$892, shall be paid by PROJECT APPLICANT in accordance with this Agreement as amended.

Amend the first sentence of Paragraph 6.c., "Project Contingency", of Paragraph 6, 8. "Payments to Contractor and County", to read as follows:

> Amendment No. 1 to Funding Agreement No. A-14700 Rancho Canada Venture, LLC Second Revised DEIR for the Rancho Canada Village Subdivision Project RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$97,308.00

An additional not to exceed amount of twenty thousand dollars (\$20,000) in Project Contingency covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of the Parties, pursuant to Section 3, Transfer from Project Contingency Account, of "Exhibit A" and "Exhibit A-1" of the PSA as amended.

- 9. All other terms and conditions of the Agreement remain unchanged and in full force.
- 10. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 1 to Funding Agreement No. A-14700 Raucho Canada Veniure, LLC Second Revised DEIR for the Ranoho Canada Village Subdivision Project RMA – Planning Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$97,308,00

Page 4 of 5

Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Funding Agreement as of the day and year written below:

COUNTY OF MONTEREY	PROJECT APPLICANT*	
By: 6984440/F942435		Rancho Canada Venture, LLC
Date: 9/30/2020	By:	(Signature of Chair, President or Vice President)
	Its:	R. Alan Williams, Sole Manager (Print Name and Title)
	Date:	9-16-20
Approved as to Form Office of the County Counsel Leslie J. Gisard Decounty Counsel	By:	(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)
By: Brian P. Briags BIG2DIAF861147F Wondy S. Strimling Brian P. Briggs Assistant County Counsel Deputy County Cou		(Print Name and Title)
Date: 9/16/2020	Date:	n
Approved.as.t.a.Fiscal Provisions By: Cary Gibony D3834BFEC108449. Auditor/Controller		
Date: 9/16/2020		
Approved as to Indemnity and Insurance Provision Office of the County Counsel-Risk Manager Leslie J. Girard, County Counsel-Risk Manager	IS	
By:Risk Management		
Date: *INSTRUCTIONS: If PROJECT APPLICANT is a corporation, including non- be set forth above together with the signatures of two (2) specified officers ( APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the two (2) managers. If PROJECT APPLICANT is a partnership, the full legal name signature of a partner who has authority to execute this Agreement on behalf of the individual canacity the individual shell set forth the parame of the huminers if any signature of a partner who has authority to execute the set of the huminers if any individual canacity the individual shell set forth the parame of the huminers if any set of the set of the huminers if any set of the huminers is a set of the huminers if any set of the huminers is a set of the huminers if any set of the huminers if any set of the huminers if any set of the huminers is any set of the huminers if any set of the huminers is any set of the huminers if any set of the huminers is any set of the huminers in the huminers in the huminers is any set of the huminers in the huminers in the huminers is any set of the huminers in the huminers in the huminers is any set of the huminers in the huminers in the huminers is any set of the huminers in the huminers in the huminers is any set of the huminers in the huminers in the huminers in the huminers is any set of the huminers in the huminers in the huminers in the huminers is any set of the huminers in the huminers in the huminers in the huminers is any set of the huminers in the huminers i	per Californ he LLC sha me of the partnerships he partnerships	us Corporations Code Section 313. If PROJECT Il be set forth above together with the signatures of

Amendment No. 1 to Funding Agreement No. A-14700 Rancho Canada Venture, LLC Second Revised DEIR for the Rancho Canada Village Subdivision Project RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$97,308.00

Page 5 of 5

individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Funding Agreement as of the day and year written below:

COUNTY OF MONTEREY	<b>PROJECT APPLICANT*</b>
By:	Rancho Canada Venture, LLC
Carl P. Holm, AICP RMA Director	<u>b</u>
Date:	By: (Signature of Chair, President or Vice President)
	Its: R. Alan Williams, Sole Manager (Print Name and Title)
	Date: 9-16-20
Approved as to Form Office of the County Counsel Leslie J. Girard, County Counsel	By: (Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)
By: Wendy S. Strimling Assistant County Counsel	Its: (Print Name and Title)
Date:	Date:
Approved as to Fiscal Provisions	
By:Auditor/Controller	
Date:	
Approved as to Indemnity and Insurance Office of the County Counsel-Risk Manag Leslie J. Girard, County Counsel-Risk Ma	er
By: Risk Management	
be set forth above together with the signatures of two (2) specific APPLICANT is a Limited Liability Corporation (LLC), the full le	ncluding non-profit corporations, the full legal name of the corporation shall fied officers per California Corporations Code Section 313. If PROJECT gal name of the LLC shall be set forth above together with the signatures of e full legal name of the partnership shall be set forth above together with the

Amendment No. 1 to Funding Agreement No. A-14700 Rancho Canada Venture, LLC Second Revised DEIR for the Rancho Canada Village Subdivision Project RMA – Planning Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$97,308.00

signature of a partner who has authority to execute this Agreement on behalf of the partnership. If PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said

Agreement.

# **EXHIBIT 1A**

## AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN RINCON CONSULTANTS, INC. AND THE COUNTY OF MONTEREY TO PROVIDE A SECOND REIR FOR THE RANCHO CAÑADA VILLAGE SUBDIVISION PROJECT

## AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN COUNTY OF MONTEREY AND RINCON CONSULTANTS, INC.

THIS AMENDMENT NO. 1 to Professional Services Agreement No. A-14699 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Rincon Consultants, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties") as of the last date opposite the respective signatures.

WHEREAS, on May 14, 2020, CONTRACTOR entered into Professional Services Agreement No. A-14699 with County (hereinafter, "Agreement") to prepare a Second Revised Environmental Impact Report (hereinafter, "SREIR") for the Rancho Village Subdivision Project (hereinafter, "Project") for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$76,597, and concurrently, County approved a Funding Agreement with Rancho Canada Venture, LLC, the Project Applicant, to fund the services provided by CONTRACTOR; and

WHEREAS, the Second Revised Draft EIR (SRDEIR) has since been prepared and circulated for public review. The comment period closed on August 11, 2020; and

WHEREAS, the CONTRACTOR's scope of work under the Agreement provided for the possibility of reevaluation and augmentation of their budget depending on the volume and detail of the comments received on the SRDEIR; and

WHEREAS, based on the comments received on the SRDEIR, the CONTRACTOR needs additional funding to prepare responses to comments, produce the Second Revised Final EIR (SRFEIR), and continue coordination with County staff, as further set out in Exhibit A-1, attached hereto and incorporated herein by reference; and

WHEREAS, the Parties wish to amend the Agreement to increase the amount by \$19,819 for a total amount not to exceed \$96,416 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 1; and

WHEREAS, the County is concurrently herewith processing an amendment to the Funding Agreement with the Project Applicant to provide funding for the services under this Amendment No. 1.

Amendment No. 1 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project RMA – Planning Term: March 10, 2020 – September 30, 2021 Not to Exceed; \$96,416.00

Page 1 of 3

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 2, "Payments by County", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A and A-1, 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 \$<u>96,416</u>.

- 2. Arnend Paragraph 4, "Additional Provisions/Exhibits", to add "Exhibit A-1, Scope of Services/Payment Provisions".
- 3. All written reports required under this Agreement as amended shall be delivered to the following individual:

Mary Israel, Associate Planner County of Monterey Resource Management Agency - Land Use & Community Development 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527 Email: israelm@co.monterey.ca.us

- 4. All other terms and conditions of the Agreement remain unchanged and in full force.
- 5. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 1 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project RMA – Planning Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$96,416.00 IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Professional Services Agreement as of the day and year written below:

COUNTY OF MONTEREY	CONTRACTOR*		
Ву:	Rincon Consultants, Inc.		
Carl P. Holm, AICP RMA Director		Contractor's Business Name	
Date:	By:	-	
		(Signature of Chair, President or Vice President)	
	Its:		
		(Print Name and Title)	
	Date:		
	By:		
Approved as to Form	-	(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)	
Office of the County Counsel Leslie J. Girard, County Counsel		· · · · · · · · · · · · · · · · · · ·	
Ву:	Its:		
Wendy S. Strimling Assistant County Counsel		(Print Name and Title)	
Date:	Date:		
Approved as to Fiscal Provisions			
By:Auditor/Controller			
Auditor/Controller			
Date:			
Approved as to Indemnity and Insurance F Office of the County Counsel-Risk Manage Loslie J. Girard, County Counsel-Risk Mar	r		
Ву:			
Sy:			
Date:			
INSTRUCTIONS: If PROJECT APPLICANT is a corporation, in set forth above together with the signatures of two (2) specifi	ucluding non-profit corpu led officers per Californ	nations, the full legal name of the corporation shall in Corporations Code Section 313. If PROJECT	

"INSTRUCTIONS: If PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnorship, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to excent this Agreement on behalf of the partnership. If TROJECT APPLICANT is constraining in an individual capacity, the individual shall set forth the name of the basiness, if any, and shall personally sign the Agreement or Amendment to said Agreement.

> Amendment No. 1 to Professional Services Agreement No. A-14699 Rincon Consultants, Inc. Second Revised EIR for the Rancho Canada Village Subdivision Project RMA – Planning Term: March 10, 2020 – September 30, 2021 Not to Exceed: \$96,416.00

## To Agreement by and between County of Monterey, hereinafter referred to as "County" and Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

#### A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (EIR) (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

Based on the extent of public comments received and the approach for responding, additional work effort will be required beyond what was anticipated in the Agreement with the CONTRACTOR. This Amendment No. 1 to the Agreement incorporates the additional staff time required for completion of the tasks below.

## Task 5: Administrative Second Revised Final EIR

### (Additional Responses to Comments)

The March 10, 2020 Agreement scope assumed that "most comment letters will be the same or similar to comments that were received on the certified EIR" but anticipated "receipt of at least one (1) lengthy legal comment." The level of effort was estimated at eighty (80) professional staff hours; however, as noted in the Agreement, "The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period."

Based on the comments received and consultation with County staff, CONTRACTOR estimates the need for ninety-five (95) professional staff hours to respond to comments, for an increase of fifteen (15) professional staff hours. This estimate includes assumptions about County contributions to the preparation of responses to comments. If CONTRACTOR is required to do work currently assumed to be done by County staff, additional budget will be required.

### Deliverable(s): Administrative Second Revised Final EIR

## Task 7: Second Revised Final EIR

## (Additional Final EIR Production)

The typical County format for a Final EIR includes an Introduction, Responses to Comments, and Revisions to the Draft EIR in a stand-alone document; Draft EIR sections are not revised and reproduced in full. Per direction provided by County staff, County has requested preparation of a full Final EIR with all Draft EIR sections, and a new Responses to Comments chapter. In this scenario, the existing strikethrough and underline in the Draft EIR would be removed manually, and any edits completed in response to public comments would then be shown in strikethrough and underline. This scope amendment includes professional and production staff time to complete this formatting. In addition, due to the increased length of the Final EIR under this scenario, an estimated \$600.00 additional budget would be required for printing.

Deliverable(s): Second Revised Final EIR as Introduction, Responses to Comments, and Revisions to the Draft EIR in a stand-alone document and also with edits completed in response to public comments shown in strikethrough and underline.

## Task 9: Project Management and Hearings (Additional Project Management)

Task 9, Project Management and Hearings, from the March 10, 2020 Agreement scope of work assumed attendance at up to three (3) conference calls with County staff during the course of this Agreement; more coordination calls have occurred, and as such, the management budget is nearly expended. Therefore, this budget augmentation request includes additional time for attendance at up to three (3) additional conference calls (1.5-hours each) and ongoing coordination and management of the Final EIR.

## Assumptions:

This Scope of Services incorporates the same assumptions as the original Exhibit A to the Agreement.

## **Deliverables:**

CONTRACTOR shall produce the deliverables as noted in the above-mentioned tasks and in the original Exhibit A to the Agreement. All written reports required under this Agreement as amended herein shall be delivered as noted to the following individual and in accordance with the Project Schedule which follows:

Mary Israel, Associate Planner County of Monterey Resource Management Agency - Land Use & Community Development 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527 Email: israelm@co.monterey.ca.us

#### **B. PAYMENT PROVISIONS**

#### **COMPENSATION/ PAYMENT**

County shall pay an increased amount not to exceed <u>\$19,819.00</u> (<u>\$9,819.00</u> for Base Budget plus <u>\$10,000.00 in Project Contingency</u>) for the performance of <u>all things necessary</u> for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

During this Agreement as herein amended, County and CONTRACTOR agree that CONTRACTOR shall only be reimbursed for mileage according to the Internal Revenue Service standard mileage rate and not for travel expenses.

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

#### **CONTRACTOR'S BILLING PROCEDURES**

Invoices for deliverables under the Agreement as herein amended shall be submitted when the work product is complete and shall identify the document or work product being delivered. Invoices for Page 2 of 6

services performed in conjunction with a deliverable may be billed monthly (by the tenth day of the month) and will be considered on a time and materials basis. All invoices shall include the following and shall be submitted with the Invoice Coversheet (provided as Attachment B-1 in Exhibit A-1 of this Agreement):

## 1. Invoice Coversheet

	onsultants, Inc. añada Village Subdivi	sion Project Second Revised Ell	Date: R Invoice No		
	Agreement Amount:	March 10, 2020 to September . \$76,597.00 (\$66,597.00 B		\$10,000.00	Project
Amendmen	nt No. 1: \$ 19,819	9.00 (\$ 9,819.00 Base Budget plus	\$10,000.00 Project Cont	ingency)	
This Invoid	ce:				
Task 5:	\$2,550.00	Administrative Second Revi	ised Final EIR		
Task 7:	\$2,869.00	Second Revised Final EIR			
Task 9:	\$3,800.00	Project Management and H	earings		
	13	Direct Cost Summary	0		
	\$600.00	Printing and Reproduction	Costs		
-	\$9,819.00	0 1	GRAND TOTAL:		
		REMAI	NING BALANCE:		

#### Approved as to Work/Payment: Mary Israel, Associate Planner

Date

Payment shall be based upon satisfactory acceptance of each work product/deliverable.

Invoices under this Agreement as amended shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>:

County of Monterey Resource Management Agency – Finance Division 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement as amended should be directed to the RMA Finance Division at (831) 755-4800 or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>.

County may, in its sole discretion, terminate the Agreement as amended or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement as amended.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement as amended shall be made by County.

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.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

## 2. Invoice Detail

Each invoice for deliverables shall indicate percentage of completion of the task and include the invoice amount in association with the <u>actual</u> deliverables performed and shall be within the "Not to Exceed" budget amount allocated for the Project.

Each invoice for services performed shall indicate the hours worked by task and by staff member, with the corresponding billing rates. Payment of these services will be based on the documentation provided by CONTRACTOR and shall be within the "Not to Exceed" budget amount allocated for the service or services performed.

Any subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

The RMA Director or designce may request documentation of the number of hours worked by task and by staff member, with the corresponding billing rates and/or the subconsultant costs. The information will be used to complete the file and to ensure proper payment for deliverables/services.

#### 3. Transfer from Project Contingency Account

Transfer of funding from the Project Contingency Account (total Agreement Project Contingency of \$20,000.00) requires the prior written approval of the RMA Director or designee and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the RMA Director and/or Project Planner, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;
- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five (5) working days of receipt of the recommendation, the RMA Director and/or Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the RMA Director or designee. Within ten (10) working days thereafter, the RMA Director or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant and CONTRACTOR.

Page 4 of 6

Unless the recommended transfer is denied by the RMA Director or designee, the RMA Director or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant's written approval by the RMA Director or designee, the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.



## RINCON CONSULTANTS, INC.

Rancho Cañada Scope Amendment Request

Cost Estimate (without Contingency)

		Labor	Description →	Senicr Prof I ar II. Supervisor I. Sr Superviso I. ar Principal I	Professional III or IV	Associate (, 4, cr t) Protessional 1 or 11	Production Specialist	GIS/CADD Specialiti I o	Clerical
Tasks	Labor Cost	Direct Expense	Hours	\$220	\$145	\$115	\$88	\$125	\$75
Task 5: Administrative Final EIR (Additional Responses to Comments)	\$2,550	50	15	5	10				
Task 7: Final EIR (Formatting/Production)	52,869	5600	25	2		15	8		
Task 9: Project Management and Hearings	\$3,800	50	20	12	8				
SUBTOTAL COST	5 9,219	S 600	60	4,180	2610	1,725	104	0	0

Direct Cost Summary			
Printing and Reproduction		5	600
	Subtotal Additional Costs:	5	600
Summary	1997 - A 19		
Professional Fees Subtotal		5	9,219
Direct Costs Subtotal		5	500
	Territorials entitle lands of mini-contract		

Professional Services - are based on Rincon's standard fee schedule and labor classifications. The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, with the County's written approval, prior to the realcoation as long as the total contract price is not exceeded.

8/24/2020

## **ATTACHMENT B-1**

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## **Invoice Coversheet**

	onsultants, In añada Villag	c. Date: e Subdivision Project Second Revised EIR Invoice No
	greement Am	m: March 10, 2020 to September 30, 2021 count: \$76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project
Amendment	No. 1; \$	19,819.00 (\$ 9,819.00 Base Budget plus \$10,000.00 Project Contingency)
This Invol	cet	
Task 5:	\$2,550.00	Administrative Second Revised Final EIR
Task 7:	\$2,869.00	Second Revised Final EIR
Task 9:	\$3,800.00	Project Management and Hearings Direct Cost Summary
	\$600.00	Printing and Reproduction Costs
-	\$9,819.00	GRAND TOTAL:
		<b>REMAINING BALANCE:</b>

Approved as to Work/Payment: Mary Israel, Associate Planner

Date

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## Attachment E

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Legistar File ID No. A 20-105 Agenda Item No. 27



## Monterey County Board of Supervisors

**Board Order** 

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

## PLN040061-AMD1 - Rancho Canada Village Amendment

a. <u>Agreement No.: A-14699</u> / Approve Professional Services Agreement with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the base budget is \$66,597 and the Contingency Budget is \$10,000, for a total amount not to exceed \$76,597, for a term retroactive to March 10, 2020 to September 30, 2021;

b. <u>Agreement No.: A-14700</u> / Approve Funding Agreement with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the base budget is \$66,597, the Contract Administration Fee is \$446, and the Contingency Budget is \$10,000, for a total amount not to exceed \$77,043, for a term retroactive to March 10, 2020 to September 30, 2021; and

c. Authorize the Resource Management Agency Director or designee to execute the Professional Services Agreement, Funding Agreement and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

PASSED AND ADOPTED on this 12th day of May 2020, by roll call vote:

AYES:Supervisors Alejo, Phillips, Lopez, Parker and AdamsNOES:NoneABSENT: None(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting May 12, 2020.

Dated: May 12, 2020 File ID: A 20-105 Agenda Item No.: 27 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

oel Pablo

Joel G. Pablo, Deputy

## COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS (\$100,000 AND LESS)

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:

Rincon Consultants, 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** a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project

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  $$\frac{76,597}{2}$ .

3. TERM OF AGREEMENT. The term of this Agreement is from <u>March 10, 2020</u> to <u>September 30, 2021</u>, 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 Revision to Paragraph 8, Indemnification, of Agreement

## 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.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR. Refer to Exhibit B for substitute language to replace strikethrough language above.

PSA \$100,000 or Less for Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08 2 of 9 Project ID: Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$76,597 (Datte)

initials)

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 provious 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.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

PSA \$100,000 or Less for Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08 Refer to Exhibit B for substitute language to replace strikethrough language above. 2 of 9 Project ID: Rincon Consultants, Inc. Rancho Cafada Village Subdivision Project Second RBIR RMA - Planning

Not to Exceed: \$76,597

Term: March 10, 2020 - September 30, 2021

(Date)

(Contractors' Initials)

8.02 Indemnification for Design Professional Services Claims; CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY Refer to Exhibit B for substitute language to replace strikethrough language above.

Refer to fixhibit B for substitute language to replace striket model initialized above. (Contractors' initials) (Date) 8-03 Indemnification for All Other Claims or Loss; For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

9. INSURANCE. Refer to Exhibit B for substitute language to replace strikethrough language above.

(Contractors' Initials)

20(Date)

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 <u>not</u> 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 <u>Qualifying Insurers:</u>

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 <u>Insurance Coverage Requirements</u>: 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:

<u>Commercial general liability insurance</u>, 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.

Modification (Justification attached; subject to approval).

3 of 9 Project ID: Rineon Consultants, Inc. Rancho Caffada Village Subdivision Project Second RBIR RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$76,597 8.02 Indemnification for Design Professional Services Claims: CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY

Refer to Exhibit B for substitute language to replace strikethrough language above. (Contractors' initiats) (Date) 8.03 Indemnification for All Other Claims or Loss: For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

9. INSURANCE. Refer to Exhibit B for substitute language to replace strikethrough language above.

(Contractors' Initials)

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 <u>not</u> 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 <u>Qualifying Insurers:</u>

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 <u>Insurance Coverage Requirements:</u> 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:

<u>Commercial general liability insurance</u>, 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.

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.

• 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.

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.

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.

<u>Commercial general liability and automobile liability policies shall provide an endorsement naming the</u> 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.

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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. <u>Confidentiality</u>. 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. <u>County Records.</u> 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. <u>Maintenance of Records.</u> 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. <u>Access to and Audit of Records.</u> 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 C
Dalia Mariscal-Martinez, Management Analyst	Mega	n Jones, Princ
Name and Title		Na
County of Monterey, Resource Management Agency 1441 Schilling Place, South 2nd Floor, Salinas, CA 93901		i Consultants, In gueroa Street, Su
Address		
(831) 755-8966	(831)	333-0310
Phone	·	
PSA \$100,000 or Less for Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08	6 of 9	Project ID; Ri Ri Pt Sc

## FOR CONTRACTOR:

pipal

me and Title

c.

lite 203, Monterey, CA 93940

Address

Phone

ncon Consultants, Inc. ancho Cañada Village Subdivision oject cond REIR RMA - Planning

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#### 15. MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest</u>. 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 <u>Amendment</u>. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver</u>. 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 <u>Contractor</u>. 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 <u>Assignment and Subcontracting</u>. 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 <u>Successors and Assigns</u>. 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 <u>Compliance with Applicable Law.</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings.</u> 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 <u>Governing Law.</u> This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 <u>Non-exclusive Agreement</u>. 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 <u>Construction of Agreement</u>. 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 <u>Counterparts</u>. 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 <u>Authority</u>. 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 <u>Integration</u>. 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 <u>Interpretation of Conflicting Provisions.</u> 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.

This space left blank intentionally

PSA \$100,000 or Less for Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08 IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

	COUNTY OF MONTEREY		CONTRACTOR
By:	Contracts/Purchasing Officer	R	Lincon Consultants, Inc.
Date: By: '	Department Head (if applicable)	By:	Contractor's Business Name*
Date: Approved a			(Signature of Cheir, President, or Vice-President)*
By:	County Counsel	Date:	ED HEN M. SUGPE, AICI Name and Title EXER. V.P
Date:			7/24/20
	as to Fiscal Provisions <sup>2</sup>	By:	(Signature of Secretary, Asst. Secretary, CFO,
By: Date:	Auditor/Controller		Treasurer or Asst. Treasurer)*
		Date:	Name and Title
	s to Liability Provisions <sup>3</sup>		
By: Date:	Risk Management		

\*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.

9 of 9

Project ID: Rincon Consultants, Inc. Rancho Cafada Village Subdivision Project Second REIR RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$76,597

<sup>&</sup>lt;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 for all Professional Service Agreements

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

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

	COUNTY OF MONTEREY		CONTRACTOR
By:	Contendto Durabasia a Officia		Rincon Consultants, Inc.
Date:	Contracts/Purchasing Officer		Contractor's Business Name*
By;		2	
Date:	Department Head (if applicable)	By:	(Signature of Chair, President, or Vice-President)*
Approved a	is to Form <sup>1</sup>		
By:	County Counsel	Date:	Name and Title
Date:		Louid,	$\mathcal{D}$
Approved a By:	s to Fiscal Provisions <sup>2</sup>	By:	(Signature of Secretary, Asst. Secretary, CFO,
	Auditor/Controller		Treasurer or Asst. Treasurer)*
Date:			RICHARD DAVIT Secnerary Name and Title
Approved a	s to Liability Provisions <sup>3</sup>	Date:	
By:	••••••••••••••••••••••••••••••••••••••		
Date:	Risk Management		

\*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.

9 of 9

Project ID: Rincon Consultants, Inc. Ranoho Cafada Village Subdivision Project Second RBIR RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$76,597

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

<sup>&</sup>lt;sup>2</sup>Approval by Auditor/Controller is required for all Professional Service Agreements

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

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

	COUNTY OF MONTEREY		CONTRACTOR
By:	Contracts/Purchasing Officer	1	Rincon Consultants, Inc.
Date:			Contractor's Business Name
By: 1	Department Head (if applicable)	By:	
Date:	5/14/2020		(Signature of Chair, President, or Vice-President)*
Approved a	is to Form <sup>1</sup>		STEPHENM. SVETE, AICP
<b>By:</b> /s/ W	endy S. Strimling, Asst. County Cou		STEPHENM. SVETE, AICP Name and Title EXEZ. V.P. 4/22/2025
Date:	County Counsel April 30, 2020	Date;	4/22/2020
Approved a	s to Fiscal Provisions <sup>2</sup>	By:	·
By:	Hlasa		(Signature of Scoretary, Asst. Scoretary, CFO, Treasurer or Asst. Treasurer)*
	Auditor/Controller		•
Date:	5/4/2020		
	,		Name and Title
Approved a	s to Liability Provisions <sup>3</sup>	Date:	an a
By:			
Date:	Risk Management		

\*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.

PSA \$100,000 or Less for Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08 9 of 9 Project ID: Rincon Consultants, Inc. Rancho Caflada Village Subdivision Project Second RER RMA - Planeing Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$76,597

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

<sup>&</sup>lt;sup>2</sup>Approval by Auditor/Controller is required for all Professional Service Agreements

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

#### To Agreement by and between County of Monterey, hereinafter referred to as "County" and neon Consultants. Inc., hereinefter referred to as "CONTRACTO

## Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

## A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

## PROJECT BACKGROUND:

The previously certified Environmental Impact Report (EIR) evaluated the development of two hundred eighty-one (281) residential units as the proposed Project. The certified EIR also evaluated a one hundred thirty (130) unit alternative at the same level of detail as the proposed Project. In December 2016, the County certified the EIR and approved the one hundred thirty (130) unit alternative. In January 2017, the Carmel Valley Association (CVA) filed a lawsuit on that approval. (Carmel Valley Association, Inc., v. County of Monterey (Monterey Superior Court Case No. 17CV000131).) The trial court issued a writ of mandate and judgment in July 2018 ("court order"), holding that, although the one hundred thirty (130) unit proposal was presented as an alternative in the EIR, this proposal was the true "project" under consideration and hence the EIR's Project Description was legally inadequate. The court further reasoned that, because the range of alternatives within the EIR treated the two hundred eighty-one (281) unit proposal as the "project," the alternatives were inadequate, as they sought to reduce impacts of a two hundred eighty-one (281) unit proposal rather than those of the one hundred thirty (130) unit proposal. The Monterey County Superior Court found that the EIR's Project Description and alternatives analysis were defective but found no problems with the impact analyses and mitigation measures in the EIR, nor did CVA ask the court to find any such additional violations. The County of Monterey ("County") is preparing this Second Revised Draft Environmental Impact Report (Second REIR), and contracting with CONTRACTOR herein, in response to the court judgment and writ of mandate issued by the Monterey Superior Court in Carmel Valley Association, Inc., v. County of Monterey.

CONTRACTOR's understanding of the Project, referred to herein as the Revised Project, that is the subject of the Second REIR is the one hundred thirty (130) unit alternative evaluated in the previously certified EIR and approved by County. The Revised Project includes a minor change to the Project site boundary associated with the area identified in certified EIR as Lot 130. Since the Monterey County Board of Supervisors' 2016 project approval, this lot was transferred to the Santa Lucia Conservancy. Therefore, the Revised Project does not include this parcel in the Project site, and a unit has been added to the main Project location; thus, the Revised Project still is one hundred thirty (130) units.

## **SCOPE OF SERVICES:**

CONTRACTOR shall prepare the Second REIR for the one hundred thirty (130) unit Project in compliance with the court order. To comply with the court order, the discussion of impacts and mitigation measures will be revised to omit evaluation of the two hundred eighty-one (281) unit project

Page 1 of 15

and to replace the alternatives chapter. As recognized in case law, the impact analysis, which was not challenged or invalidated in the afore-referenced litigation, is not required to be revised. Some changes to the existing environment and conditions have occurred since the certified EIR was prepared. For example, when preparation of the certified EIR began, the Project site was still part of a functioning golf course. The golf course has since closed. However, this is not a change or revision to the actual Project. Additionally, because the certified EIR is only being revised and recirculated to correct the matters identified in the court order, CONTRACTOR assumes existing conditions for analysis will be those that were used for the analysis in the certified EIR.

The Second REIR shall be prepared by CONTRACTOR in accordance with the State CEQA Guidelines, which set the standards for adequacy of an EIR. Specifically, the CEQA Guidelines state: An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible.

As CONTRACTOR revises the certified EIR to create the Second REIR, as described above, CONTRACTOR shall also ensure that the analysis is fully defensible. The following outlines the key tasks for completing the Revised DEIR.

## Task 1: Kickoff Meeting and Data Collection

Within one (1) week of County's authorization to proceed, CONTRACTOR's Project Manager shall organize a kick-off meeting with County staff and the Project Applicant team to review background technical studies, confirm CONTRACTOR's approach to the environmental evaluation, fine-tune the overall Project Schedule, and establish an operation protocol. CONTRACTOR shall prepare an agenda for the meeting and provide notes after the meeting. It is assumed the meeting shall occur at County Resource Management Agency (RMA) offices and shall not exceed two (2) hours.

As part of this task, CONTRACTOR shall collect and review background data, including the previous DEIR, Revised DEIR, and Final EIR, and other technical studies prepared for the Project.

## Task 2: Administrative Revised DEIR

CONTRACTOR shall prepare an Administrative Second Revised DEIR in accordance with the State CEQA Guidelines. Because this Administrative Second Revised DEIR will be a revised version of the certified EIR, it will address the same environmental issues that were addressed in the certified EIR. The Administrative Second Revised DEIR shall utilize the certified EIR text, but with revisions to remove discussion of the two hundred eighty-one (281) unit project, and instead reframe the one hundred thirty (130) unit alternative as the proposed Project.

Upon initiating this task, CONTRACTOR shall carry all edits shown in Chapter 4, Revisions to the Recirculated DEIR, from the certified Final EIR into the Word document sections provided, which are from the prior DEIR. These revisions shall not be made in track changes or strikethrough and underline formatting.

The Administrative Second Revised DEIR shall consist of the following sections, which shall be revised versions of these same sections taken from the certified EIR.

Page 2 of 15

**Executive Summary and Table of Contents** – The Executive Summary section shall summarize the Revised Project and associated environmental consequences. Impacts shall be presented in tabular format to simplify review by decision-makers and the general Public. The Table of Contents will provide readers with the appropriate page number where each major section of the EIR can be found, consistent with Section 15122 of the CEQA Guidelines.

**Project Description** - This section shall include a description of the Revised Project, focusing on Project characteristics relevant to the analysis, Project objectives, and required discretionary approvals. Construction details, such as duration and potential equipment, shall also be summarized to inform the analysis. The Project Description shall include textual, tabular, and graphic presentation to fully describe the Project and form a basis for the environmental analysis. The Project Description shall describe only a Project consisting of one hundred thirty (130) units. Other changes that have occurred since certification of the EIR, such as changes to the Project site boundary, shall also be discussed in the Project Description.

Introduction and Environmental Setting - These required introductory sections shall lay the groundwork for and summarize the substantive analysis to follow. The introduction shall describe the purpose and legal authority of the EIR, and provide a discussion of lead, responsible, and trustee agencies. The environmental setting shall provide a general description of the existing geographic character of the Project site and the Project site vicinity.

Environmental Impact Analysis - This section shall analyze impacts to each resource area evaluated in the EIR. For each issue area, the analysis shall include four (4) main components:

- Setting description of current conditions, as they existed when the Notice of Preparation (NOP) was prepared for the certified EIR, with respect to the issue in question, including the existing regulatory environment
- Impact Analysis discussion of potentially significant effects of the proposed Project; impacts are typically compared to established "thresholds of significance"
- Mitigation Measures methods by which significant effects can be reduced or eliminated
- Level of Significance after Mitigation discussion of whether proposed mitigation measures reduce impacts to below the adopted significance threshold

As described above, based on a review of the certified EIR, it appears that the analysis of direct and indirect impacts included a proposed two hundred eighty-one (281) unit project and a one hundred thirty (130) unit alternative. CONTRACTOR assumes that the analysis that was completed for the one hundred thirty (130) unit alternative shall be utilized to suffice for the analysis of the Revised Project.

Other CEQA Required Discussions - This section shall include discussions of other sections required by the CEQA Guidelines and shall include an analysis of potential growth-inducing impacts and irreversible environmental effects. This section shall also address resource areas with all less than significant impacts or no impacts.

**Cumulative Impacts** - Consistent with Section 15130 of the CEQA Guidelines, cumulative impacts resulting from the Revised Project impacts combined with impacts of other projects in the area shall be evaluated. Other projects in the area shall be derived in consultation with County. Mitigation measures shall be provided, as applicable, to reduce significant cumulative impacts of the Project.

Note: It will need to be determined whether a new cumulative list will be developed for resource topics where a list method was used, given that the list of cumulative projects will have certainly changed since the issuance of the original NOP.

Alternatives – This section shall be prepared in accordance with the requirements of the State CEQA Guidelines, Section 15126.6, and recent court decisions. The purpose of this section shall be to promote informed decision-making and to evaluate a reasonable range of Project alternatives. CONTRACTOR assumes up to six (6) alternatives shall be evaluated (see Attachment A). This shall include the CEQA-required "No Project" alternative and up to five (5) Project alternatives. The one hundred thirty (130) unit alternative shall not be evaluated in this section since it shall constitute the Revised Project evaluated in the Revised DEIR. Per direction from County, this Scope of Services assumes that the alternatives shall be new, with the exception of the forty (40) unit Low Density Alternative, which appeared in the original EIR but will need to be modified so as to be compared against the one hundred thirty (130) unit Revised Project.

**References** - This section of the EIR shall provide a list of references for the citations found in the body of the EIR. A copy of the reference material shall be kept in the Administrative Record, and provided to County on CD, flash drive, or similar digital storage device upon completion of the Second Revised Draft EIR.

Deliverable(s): Digital copy of Administrative Second Revised DEIR in Word and PDF formats

## Task 3: Screencheck Revised DEIR

Following receipt of County edits and comments on the Administrative Second Revised DEIR, CONTRACTOR shall revise the document accordingly and prepare a Screencheck Second Revised DEIR. The Screencheck Second Revised DEIR shall provide County with an opportunity for final review of the document as it will appear when circulated for Public review.

Deliverable(s): Digital copy of Screencheck Revised DEIR in Word and PDF formats

## Task 4: Second Revised DEIR

After comments on the Screencheck Revised DEIR have been fully addressed, CONTRACTOR shall finalize the Second Revised DEIR and produce up to nineteen (19) paper copies of the document suitable for Public distribution, including copies of all referenced technical documents attached on a CD, flash drive, or similar digital storage device, as well as an electronic copy in Word and PDF format for uploading to County's website. As part of this task, CONTRACTOR shall convert final track change edits into <u>underline</u> format, for inclusion in the Second Revised DEIR released to the Public. The Second Revised DEIR shall be circulated for Public comment for a minimum period of forty-five (45) days, as required by CEQA. CONTRACTOR shall prepare a Notice of Completion (NOC) and file it with the State Clearinghouse on behalf of County. CONTRACTOR shall also prepare a Notice of Availability (NOA) for County to use in filing the Second Revised DEIR with the Monterey County Clerk. CONTRACTOR assumes County shall be responsible for required newspaper advertisements and other Public noticing of the document's availability, such as radius label mailing or on-site posting.

*Deliverable(s):* NOA, NOC, nineteen (19) paper copies of the Revised DEIR, thirty-two (32) CDs, flash drives, or similar digital storage devices, with a digital copy of the Second Revised DEIR in PDF format, one (1) digital copy of Second Revised DEIR in Word and PDF formats, and one (1) CD, flash drive, or similar digital storage device, containing the Administrative Record

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## Task 5: Administrative Second Revised Final EIR

Subsequent to receipt of all Public comments on the Second Revised DEIR, CONTRACTOR shall prepare a draft Response to Comments for County review. This will include a list of commenters, comment letters, formal responses to comments, and added or revised text of the Second Revised DEIR that may be necessary. Subsequent to County approval of the draft Response to Comments, CONTRACTOR shall prepare the Administrative Second Final EIR for County review which will include the Response to Comments and text changes resulting from those responses. CONTRACTOR shall circulate the approved Responses to Comments to Public agencies that commented on the Revised DEIR at least ten (10) days prior to the hearing for certification per State CEQA Guidelines 15088.b.

Because the Second Revised DEIR shall be a revised version of the certified EIR, and the analysis shall closely match the analysis that was completed for the one hundred thirty (130) unit alternative in the certified EIR, CONTRACTOR anticipates that most comment letters will be the same or similar to comments that were received on the certified EIR. Therefore, CONTRACTOR anticipates that response to comments in the certified Final EIR can be applied to most comments received on the Second Revised DEIR. However, there is the possibility for receipt of comments addressing new issues or impacts that were not received during circulation of the certified EIR, including receipt of at least one (1) lengthy legal comment in light of the pending litigation. CONTRACTOR anticipates adequately responding with a maximum of eighty (80) professional staff hours. The actual level of effort required to respond shall depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. CONTRACTOR reserves the right to reevaluate the effort level and request a scope amendment upon close of the Public comment period. CONTRACTOR also assumes County shall address any legal comments received and shall provide support responding to comments pertaining to baseline conditions used in the Second Revised DEIR.

**Deliverable(s):** One (1) digital version of the draft Response to Comments in Word and PDF formats, and a cover letter for County use for circulation of the approved comment responses to the Public agencies that commented on the DEIR

## Task 6: Screencheck Second Revised Final EIR

Following receipt of County edits and comments on the Administrative Second Revised Final EIR, CONTRACTOR shall revise the document accordingly and prepare a Screencheck Second Revised Final EIR. The Screencheck Second Revised Final EIR shall provide County with an opportunity for final review of the document as it will appear when presented for potential certification.

Deliverable(s): Digital copy of the Screencheck Second Revised Final EIR in Word and PDF formats

## Task 7: Second Revised Final EIR

Following internal review and approval of the Screencheck Second Revised Final EIR, CONTRACTOR shall produce the Second Final EIR for consideration by County decision makers. The Second Revised Final EIR shall include those pages from the Second Revised Draft EIR on which changes were made, with the changes marked with underlining and strikethrough, as appropriate. The Second Revised Final EIR shall also include the comments received on the Second Revised Draft EIR and responses to those comments, as described above for Task 4, Second Revised DEIR.

**Deliverable(s):** Eighteen (18) paper copies of the Second Final EIR, seventeen (17) CDs, flash drives, or similar digital storage device with a digital copy of the Second Revised DEIR in PDF format, one (1) digital copy of the Second Final EIR in Word and PDF formats for use on County's website

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## Task 8: Mitigation Monitoring and Reporting Program (MMRP) Assistance

CONTRACTOR understands that County typically enters required Project mitigation measures into its Accela computer system. To facilitate this process, CONTRACTOR shall compile all of the mitigation measures identified in the Second Revised Final EIR and provide them in a separate file for County to use for inputting the measures into Accela.

Deliverable(s): Digital copy of the mitigation measures in the Second Revised DEIR (possibly as modified in Second Final EIR) in Word format

## Task 9: Project Management and Hearings

CONTRACTOR's Project Manager shall maintain the Project Schedule and budget and communicate with County and Project Team during preparation of the Second Revised DEIR. This shall include up to three (3) conference calls with County Staff during the course of this Agreement. CONTRACTOR's Project Manager or Principal-in-Charge shall additionally attend up to two (2) Public Hearings on the Project.

## **Assumptions:**

This Scope of Services incorporates the following assumptions:

- ☐ The Second Revised DEIR shall effectively be derived by removing the discussion of the proposed two hundred eighty-one (281) unit Project from the analysis.
- □ The one hundred thirty (130) unit alternative described and analyzed in the certified EIR shall be the Revised Project analyzed in the (first) Revised DEIR, with minor changes to the Project site, such as removal of the area referred to as Lot 130.
- □ The impacts and mitigation measures identified in the certified EIR for the one hundred thirty (130) unit alternative shall be substantially accurate, applicable, and sufficient for completing the analysis of the Revised Project.
- □ Existing baseline conditions shall be assumed to be those that were used for the analysis in the certified EIR, and therefore the same as existing conditions specified in the certified EIR. Any obvious changes (i.e., the discontinuation of the golf course use, the updating of a cumulative projects list for some resource areas) may be discussed in the Second Revised EIR, but only qualitatively so as to preserve the original baseline information.
- $\Box$  No new field surveys, field visits, or field investigations shall be required or performed.
- □ The Second Revised DEIR shall address the same CEQA checklist questions that were addressed in the certified EIR.
- □ The Administrative Second Revised DEIR shall be submitted to County in digital format only with one (1) follow up revision requested.
- □ Screencheck versions of the Second Revised Draft EIR and Second Revised Final EIR shall be submitted to County in digital format only.
- □ Appendices to the Second Revised DEIR shall not be provided in printed or hard copy format, but instead attached as CDs, flash drives, or similar digital storage device to the back covers of printed copies of the Second Revised DEIR.
- □ Responding to comments received on the Second Revised DEIR shall require a maximum of eighty (80) hours of CONTRACTOR's professional staff time.
- □ Comments received on the Second Revised DEIR will not raise new issues from those addressed in the certified EIR, and County shall respond to any legal comments received and support responses to comments pertaining to the use of baseline conditions from the certified EIR.

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- □ CONTRACTOR's Project Manager or Principal-in-Charge will attend up to two (2) Public Hearings to answer questions but shall not prepare presentation materials.
- Up to three (3) conference calls with County will be required.
- □ County will assume responsibility for the Second Revised EIR and will solely defend the document if legal challenges are presented.

## Deliverables:

CONTRACTOR shall produce the deliverables as noted in the above-mentioned tasks. All written reports required under this Agreement shall be delivered as noted above to the following individual and in accordance with the Project Schedule which follows:

Shelley Glennon, Senior Planner County of Monterey RMA - Land Use & Community Development 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527 Email: glennons@co.monterey.ca.us

## **B. PAYMENT PROVISIONS**

## COMPENSATION/ PAYMENT

County shall pay an amount not to exceed <u>\$76,597,00</u> (<u>\$66,597,00</u> for Base Budget plus <u>\$10,000,00</u> in <u>Project Contingency</u>) for the performance of <u>all things necessary</u> for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR'S compensation for services rendered shall be based on the attached Cost Estimate.

During this Agreement, County and CONTRACTOR agree that CONTRACTOR shall only be reimbursed for mileage according to the Internal Revenue Service standard mileage rate and not for travel expenses.

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

## **CONTRACTOR'S BILLING PROCEDURES**

Invoices for deliverables under the Agreement shall be submitted when the work product is complete and shall identify the document or work product being delivered. Invoices for services performed in conjunction with a deliverable may be billed monthly (by the tenth day of the month) and will be considered on a time and materials basis. All invoices shall include the following and shall be submitted with the Invoice Coversheet (provided as Attachment B in Exhibit A of this Agreement):

## 1. Invoice Coversheet

 Rincon Consultants, Inc.
 Date: \_\_\_\_\_\_

 Rancho Cañada Village Subdivision Project Revised DEIR
 Invoice No. \_\_\_\_\_\_

Agreement Term:March 10, 2020 to September 30, 2021Agreement Amount:\$ 76,597.00(\$66,597.00 Base Budget plus \$10,000.00 Project Contingency)

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Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning

This Invoice:			
Task 1:	\$2,630.00	Kickoff and Data Collection	
Task 2:		Administrative Second Revised DEIR	
	\$1,370	Carry Final EIR Edits into DEIR Sections	
	\$516.00	Executive Summary and Table of Contents	
	\$1,700.00	Project Description	
	\$225,00	Introduction and Environmental Setting	<b></b>
	\$8,586.00	Environmental Impact Analysis	
	\$485.00	Other CEQA Required Discussions	
	\$715.00	Cumulative Impacts	· · · · · · · · · · · · · · · · · · ·
	\$9,046.00	Six (6) Alternatives	·
	\$798.00	References	
Task 3:	\$3,900.00	Screencheck Second Revised DEIR	
Task 4:	\$6,600.00	Second Revised DEIR	
Task 5:	\$11,060.00	Administrative Second Revised Final EIR	· · · · · · · · · · · · · · · · · · ·
Task 6:	\$3,900.00	Screencheck Second Revised Final EIR	
Task 7:	\$3,779.00	Final EIR	······
Task 8:	\$230.00	MMRP Assistance	
Task 9:	\$5,120.00	Project Management and Hearings	
	ŗ	Direct Cost Summary	
	\$78.00	Vehicle Costs	
	\$5,859.00	Printing and Reproduction Costs	
<u> </u>	\$66,597.00	GRAND TOTAL:	
		<b>REMAINING BALANCE:</b>	

## Approved as to Work/Payment: Shelley Glennon, Senior Planner

Date

Payment shall be based upon satisfactory acceptance of each work product/deliverable.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>:

County of Monterey RMA – Finance Division 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the RMA Finance Division at (831) 755-4800 or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

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No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

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.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

## 2. Invoice Detail

Each invoice for deliverables shall indicate percentage of completion of the task and include the invoice amount in association with the <u>actual</u> deliverables performed and shall be within the "Not to Exceed" budget amount allocated for the Project.

Each invoice for services performed shall indicate the hours worked by task and by staff member, with the corresponding billing rates. Payment of these services will be based on the documentation provided by CONTRACTOR and shall be within the "Not to Exceed" budget amount allocated for the service or services performed.

Any subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

The RMA Director or designee may request documentation of the number of hours worked by task and by staff member, with the corresponding billing rates and/or the subconsultant costs. The information will be used to complete the file and to ensure proper payment for deliverables/services.

#### 3. Transfer from Project Contingency Account

Transfer of funding from the Project Contingency Account (total Project Contingency of \$10,000.00) requires the prior written approval of the RMA Director or designee and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the RMA Director and/or Project Planner, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;
- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five (5) working days of receipt of the recommendation, the RMA Director and/or Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the RMA Director or designee. Within ten (10) working days thereafter, the RMA Director or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant and CONTRACTOR.

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Unless the recommended transfer is denied by the RMA Director or designee, the RMA Director or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant's written approval by the RMA Director or designee, the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.

#### SCHEDULE

CONTRACTOR proposes the following optimum schedule for preparation of the Second Revised DEIR and shall commit to maintaining the schedule in the areas which are within CONTRACTOR's control. Delays in receiving requested information or responses by others shall result in at least day-for-day delays in the overall schedule. Substantial changes in the Project Description made after work on the Second Revised DEIR has begun, including proposed land use, density, etc., will also result in delay while the document is rewritten. A graphical schedule of the main tasks is provided below.

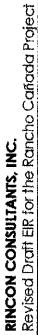
Key Task/Milestone	Duration	Total Time Elapsed
Notice to Proceed	1 day	1 day
Administrative Revised Draft EIR	4 weeks	4 weeks
County review	3 weeks	7 weeks
Screencheck Revised Draft EIR	2 weeks	9 weeks
County review	2 weeks	11 weeks
Revised Draft EIR	1 week	12 weeks
Public Comment Period	45 days	18 weeks
Administrative Final EIR	2 weeks	20 weeks
County review	2 weeks	22 weeks
Screencheck Final EIR	2 weeks	24 weeks
County review	2 weeks	26 weeks
Final EIR	1 week	27 weeks

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Budget Augmentation Request for the Rancho Caflada Revited Draft ER



Revised Draft EIR for the Rancho Cañada Project Cost Estimate

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**EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS** 

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Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning

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Page 3

## ATTACHMENT A

## List of Project Alternatives for EIR

## 1. Alternative 1 - No Project

Under the No-Project Alternative, existing (2020) conditions consist of cattle grazing on a former golf course on property with five (5) legal parcels. If neither the proposed Project nor any of the other EIR alternatives are approved, the reasonably foresceable expected use of the five (5) legal parcels, based on current plans and consistent with available infrastructure and community services, would be the construction of five (5) estate homes in which home occupations such would be permitted.

#### 2. Alternative 2 – Hotel Alternative

This Hotel Alternative consists of the development of one hundred seventy-five (175) hotel or timeshare units and twenty (20) employee housing units, six (6) hole reconfiguration of the west golf course, clubhouse and restaurant, tennis clubhouse and four tennis courts, health club, spa, meeting rooms, and administrative offices. Access would be provided, either directly or indirectly, via Carmel Valley Road for visitors and employees of this alternative. This alternative was developed to examine the potential to avoid or lessen traffic related impacts of the Revised Project, specifically during peak hours. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the County Service Area (CSA) 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

## 3. Alternative 3 – Ninety (90) Unit Low Density Residential.

This alternative would include seventy-three (73) market rate residential units and seventeen (17) affordable units on the same residential site. This alternative was developed to examine the potential to avoid or lessen traffic related impacts. The open space area would be the same as the one hundred thirty (13) Unit Revised Project. This gross density would be considered low density in Carmel Valley, although specific densities within the Village could be medium density in certain locations. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

## 4. Alternative 4 – Forty (40) Unit Low Density Residential.

This alternative would include thirty-three (33) market rate residential units and seven (7) affordable units on the same residential site [gross density of one (1) unit/acre]. This alternative was developed to examine the potential to avoid or lessen traffic related impacts. The open space area would be the same as the one hundred thirty (130) Unit Revised Project. This gross density would be considered low density [one (1) unit/acre] in Carmel Valley, although specific densities within the Village could be medium density in certain locations. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

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#### 5. Alternative 5 - Energy Efficient Clustered Residential

This alternative includes one hundred thirty (130) residential units, with clustering of twenty-five (25) condominium units to allow for use of solar infrastructure to reduce Greenhouse Gas (GHG) related impacts. This alternative was developed to examine the potential to reduce GHG related impacts. The configuration of these condominium units include a "solar village" comprising eighteen (18) condos on the front parcel, and seven (7) condo units [two (2) tri-plexes and a half plex] on the west side of the Project site. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014). This alternative reflects a reasonable evolution of the one hundred thirty (130) unit proposed Project (formulated in 2016) intended to address the State of California's increased focus on energy conservation, and solar power in particular, over the last few years.

#### 6. Alternative 6 - One Hundred Sixty (160) Unit Medium Density Residential

Like the Energy Efficient Clustered Residential Alternative (Alternative 5), this alternative would include a one hundred thirty (130) unit residential subdivision consisting of one hundred five (105) market rate homes, with clustering of twenty-five (25) condominium units to allow for use of solar infrastructure to reduce GHG related impacts. The alternative assumes, however, that the owners of as many as thirty (30) single family lots would ultimately obtain permission from the County to build accessory dwelling units, consistent with recent changes to California law. The open space area would be the same as for the Energy Efficient Clustered Residential Alternative. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

## **ATTACHMENT B**

## Invoice Coversheet

#### Rincon Consultants, Inc. Date: Invoice No, \_\_\_\_\_ Rancho Cañada Village Subdivision Project Second Revised DEIR Agreement Term; March 10, 2020 to September 30, 2021 Agreement Amount: \$76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency) This Invoice: Task 1: \$2,630.00 Kickoff and Data Collection Task 2: Administrative Second Revised DEIR Carry Final EIR Edits into DEIR Sections \$1,370 \$516.00 **Executive Summary and Table of Contents Project Description** \$1.700.00 Introduction and Environmental Setting \$225.00 **Environmental Impact Analysis** \$8,586.00 Other CEQA Required Discussions \$485.00 \$715.00 **Cumulative Impacts** \$9,046.00 Six (6) Alternatives References \$798.00 Task 3: \$3,900.00 Screencheck Second Revised DEIR Task 4: \$6,600.00 Second Revised DEIR Task 5: \$11,060.00 Administrative Second Revised Final EIR Task 6: \$3,900.00 Screencheck Second Revised Final EIR Task 7: \$3,779.00 Second Revised Final EIR Task 8: \$230.00 MMRP Assistance Task 9: \$5,120.00 Project Management and Hearings **Direct Cost Summary** Vehicle Costs \$78.00 Printing and Reproduction Costs \$5,859.00 \$66,597.00 **GRAND TOTAL: REMAINING BALANCE:**

Approved as to Work/Payment: Shelley Glennon, Senior Planner

Date

## 8, **INDEMNIFICATION**,

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

## 8.02 Indemnification for Design Professional Services Claims:

CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

## 8.03 Indemnification for All Other Claims or Loss:

For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY.

# Attachment F

# This page intentionally left blank.

Legistar File ID No. A 20-105 Agenda Item No. 27



## Monterey County Board of Supervisors

**Board Order** 

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

## PLN040061-AMD1 - Rancho Canada Village Amendment

a. <u>Agreement No.: A-14699</u> / Approve Professional Services Agreement with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the base budget is \$66,597 and the Contingency Budget is \$10,000, for a total amount not to exceed \$76,597, for a term retroactive to March 10, 2020 to September 30, 2021;

b. <u>Agreement No.: A-14700</u> / Approve Funding Agreement with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the base budget is \$66,597, the Contract Administration Fee is \$446, and the Contingency Budget is \$10,000, for a total amount not to exceed \$77,043, for a term retroactive to March 10, 2020 to September 30, 2021; and

c. Authorize the Resource Management Agency Director or designee to execute the Professional Services Agreement, Funding Agreement and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

PASSED AND ADOPTED on this 12<sup>th</sup> day of May 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and AdamsNOES: NoneABSENT: None(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting May 12, 2020.

Dated: May 12, 2020 File ID: A 20-105 Agenda Item No.: 27 Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

oel Pablo

Joel G. Pablo, Deputy

## FUNDING AGREEMENT FOR THE RANCHO CAÑADA VILLAGE SUBDIVISION PROJECT SECOND REVISED ENVIRONMENTAL IMPACT REPORT

THIS FUNDING AGREEMENT, hereinafter, "Agreement", is made and entered by and between the County of Monterey, a political subdivision of the State of California, hereinafter, "County", and Rancho Cañada Venture, LLC, hereinafter, "PROJECT APPLICANT" (collectively, the "Parties") and effective as of the last date opposite the respective signatures below and with reference to the following facts and circumstances:

### **RECITALS**

A. PROJECT APPLICANT previously applied to County for land use entitlements for the Rancho Cañada Village Subdivision Project (Project), and in December 2016, the County certified an Environmental Impact Report (EIR) for the Project and approved the one hundred thirty (130) unit alternative.

B. In January 2017, the Carmel Valley Association (CVA) filed a lawsuit on that approval. (*Carmel Valley Association, Inc., v. County of Monterey* (Monterey Superior Court Case No. 17CV000131).) The Monterey Superior Court issued a Peremptory Writ of Mandate and judgment in July 2018, holding that that the EIR's Project Description and alternatives analysis were defective under the California Environmental Quality Act (CEQA). County is contracting with Rincon Consultants, Inc. ("Contractor") to prepare a Second Revised Draft Environmental Impact Report (Second REIR) on the one hundred thirty (130) unit Project in accordance with the court judgment and writ of mandate. Contractor shall perform the Scope of Work specified in the Professional Services Agreement (hereinafter, "PSA") between County and Contractor, attached to this Agreement as Exhibit "1", and incorporated herein by reference. County shall manage the Project work performed by Contractor.

C. The Parties agree that County will engage Contractor to provide the services set forth in Exhibit "1" of this Agreement, and, as set forth herein, the PROJECT APPLICANT will pay for the cost of Contractor and associated County staff costs to process the application for the Project.

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D. A fundamental premise of this Agreement is that nothing herein is to be construed as a representation, promise, or commitment on the part of County to give special treatment to, or exercise its discretion favorably for the Project, in exchange for PROJECT APPLICANT's obligation to cover County's cost of retaining Contractor and providing County staff to work on the Project.

E. The subject matter of this Agreement is PROJECT APPLICANT's funding of the Contractor's services on the Project. This Agreement also covers the County fee for contract administration.

Page 1 of 7

F. The County department costs associated with processing the application for the Project, other than contract administration, will be funded through separate land use application fees to be paid by the PROJECT APPLICANT pursuant to the current Monterey County Land Use Fee Schedule, attached to this Agreement as "Exhibit 2", and incorporated herein by reference. These land use application fees are separate from and in addition to the funding provided by the PROJECT APPLICANT pursuant to this Agreement.

G. The Parties make this Agreement with full knowledge of the requirements of State and local law, including, but not limited to the CEQA (Public Resources Code Section 21000 et seq.,) and the State CEQA Guidelines (California Code of Regulations Title 14, Section 15000 et seq., hereinafter, "Guidelines"), County plans, and the Monterey County Code.

## NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

1.1.1.1.1.

1. <u>Deposits to Fund PSA and County Fee for Contract Administration</u>. PROJECT APPLICANT shall deposit an amount equal to the Contractor's Base Budget and the County's Contract Administration Fee. This amount totals \$67,043 and includes:

CONTRACTOR'S Base Budget: \$ 66,597 Office of the County Counsel

Contract Administration Fee (non-refundable): 446

PROJECT APPLICANT shall deposit a total amount of \$67,043 with County of Monterey Resource Management Agency (RMA) – Land Use and Community Development (Planning) upon approval of this Agreement by the County of Monterey Board of Supervisors acting on behalf of the County, currently scheduled for May 12, 2020.

PROJECT APPLICANT's deposit of \$67,043 with County shall be a condition precedent to County's obligation under this Agreement.

2. <u>Ten Thousand Dollar (\$10,000) Project Contingency</u>. An additional ten thousand dollars (\$10,000) shall be included in the PSA between County and Contractor to cover contingencies. <u>This ten thousand dollar (\$10,000) Project Contingency amount</u> is subject to the procedures in Section 3, Transfer from Project Contingency Account, specified in "Exhibit A", Scope of Services/Payment Provisions, of the PSA, attached to this Agreement as Exhibit "1", and incorporated herein by reference.

Page 2 of 7

3. <u>Maximum Budget Under Agreement</u>. The maximum amount which may be charged to PROJECT APPLICANT under this Agreement is \$77,043.

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11	÷ 2.	CONTRACTOR's Base Budget:	. •	17	\$66,597
	•	Office of the County Counsel	2	· .	
	•	Contract Administration Fee (non-refundable):		1 A.	\$ 446
		Project Contingency:	5	÷ 4	\$10,000
		; · · ;*	۰.	*	

## Maximum Charge Under Agreement:

## <u>\$77,043</u>

4. Within thirty (30) days after the end of each quarter, County shall provide quarterly progress reports to the PROJECT APPLICANT showing Contractor's charges from the prior quarter associated with completion of task(s) as specified in "Exhibit A" of the PSA (Scope of Services/Payment Provisions for the Project). Any Base Budget funds remaining at completion of Contractor's services shall be returned to the PROJECT APPLICANT.

5. <u>Engagement of Contractor.</u> This Agreement is based on County engaging Contractor in accordance with the PSA between County and Contractor, attached hereto and incorporated by this reference as Exhibit "1". Contractor shall be responsible only to County, and nothing in this Agreement imposes any obligation on County or Contractor to PROJECT APPLICANT other than to devote the time and attention to assisting with the processing of the Project. County shall provide direction and guidance to the Contractor. <u>Contractor's contact</u> with PROJECT APPLICANT shall only be through County. <u>PROJECT APPLICANT, its</u> agents, employees, consultants, representatives or partners shall not contact Contractor directly in any manner unless at a Public hearing, meeting, or workshop for the Project.

6. <u>Payments to Contractor and County.</u>

a. <u>Contractor</u>

Contractor's invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT in the amount of \$66,597.

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Should this AGREEMENT be terminated prior to September 30, 2021, any unearned balance of the Base Budget deposited by PROJECT APPLICANT to fund the PSA's Base Budget amount shall be returned to PROJECT APPLICANT within sixty (60) days of receipt of notice of termination by County.

#### b. County Contract Administration Fee

The County Contract Administration Fee, in an amount not to exceed \$446, shall be paid by PROJECT APPLICANT in accordance with this Agreement. County Contract Administration Fee shall be non-refundable.

#### Page 3 of 7

c. <u>Project Contingency</u>

An additional not to exceed amount of ten thousand dollars (\$10,000) in Project Contingency, covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of the Parties, pursuant to Section 3, Transfer from Project Contingency Account, of "Exhibit A" of the PSA. Within five (5) working days of receipt of a request from County, PROJECT APPLICANT shall approve or disapprove the Request for Transfer from Project Contingency and, if approved, at the same time submit a check to the County for the amount requested.

If PROJECT APPLICANT takes more than five (5) working days to respond to a Request for Transfer from Project Contingency, additional costs may accrue to Contractor, which may result in another Request for Transfer from Project Contingency.

d. Land Use Application Fees

The PROJECT APPLICANT agrees that PROJECT APPLICANT will separately pay land use application fees to cover all County staff costs associated with the Project in accordance with the current County of Monterey, Land Use Fee Schedule. The fee schedule applicable to the Project is dated September 17, 2019 and is attached to this Agreement as "Exhibit 2". PROJECT APPLICANT agrees to pay any remaining amounts due and owing for the required deposit upon approval of this Agreement by the County of Monterey Board of Supervisors acting on behalf of the County, currently scheduled for May 12, 2020.

7. <u>No Promise or Representation</u>. The Parties agree that nothing in Agreement is to be construed as a representation, promise, or commitment on the part of County to give special treatment to, or exercise its discretion favorably for the Project, it being understood that PROJECT APPLICANT's funding obligation under Agreement is undertaken without regard to County's actions regarding the Project.

8. <u>Term</u>. Agreement shall become effective March 10, 2020 and continue through September 30, 2021, unless terminated pursuant to Paragraph 9 or amended pursuant to Paragraph 13 of Agreement.

9. <u>Termination</u>. Agreement shall terminate on September 30, 2021, but may be terminated earlier by PROJECT APPLICANT or County, by giving thirty (30) days' written notice to the other. Upon such termination, PROJECT APPLICANT shall immediately pay any outstanding invoices, as well as pay for any work performed by Contractor through effective date of termination.

10. <u>Entire Agreement</u>. Agreement and its attachments constitute the entire agreement between the Parties respecting the matters set forth herein. The Parties each represent that neither has relied on any promise, inducement, representation, or other statement made in connection with Agreement that is not expressly contained herein.

Page 4 of 7

11. <u>Negotiated Agreement</u>. It is agreed and understood by the Parties that Agreement has been arrived at through negotiations and that neither is deemed the party which prepared Agreement within the meaning of Civil Code Section 1654.

12. <u>Assignment</u>. Neither County nor PROJECT APPLICANT shall have the right to assign its respective rights and obligations hereunder without the written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

13. <u>Amendment</u>. This Agreement may be amended, modified or supplemented only in writing by both the Parties.

14. <u>Contracting Officer</u>. The contracting officer of County, and the only entity authorized by law to make or amend Agreement on behalf of County, is the County of Monterey Board of Supervisors or a County employee whom they have specifically authorized.

15. <u>Waiver</u>. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term contained in this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in any other instance or a waiver of any other condition or breach of any other term.

16. <u>Governing Law</u>. Agreement shall be construed, interpreted and applied in accordance with the laws of the State of California applicable to commercial contracts entered into and to be performed wholly in California.

17. <u>Construction</u>. The language in all parts of Agreement shall be construed, in all cases, according to its fair meaning. The Parties acknowledge that each party has reviewed Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of Agreement.

18. <u>Conflict with Professional Services Agreement between Contractor and County</u>. In the event of a conflict between the provisions of Agreement and the PSA between County and Contractor, the provisions of Agreement shall govern.

19. <u>Relationship of Parties</u>. The Parties agree that this Agreement establishes only a funding arrangement between the Parties, and that the Parties are not joint venturers or partners.

20. <u>Indemnification</u>. PROJECT APPLICANT agrees to defend, indemnify and hold County harmless in any action brought by any third party in which the authority of the County to enter into Agreement or the validity of Agreement is challenged.

21. <u>Counterparts.</u> 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.

Page 5 of 7

22. <u>Notices</u>. Notice to the Parties in connection with Agreement shall be given personally or by regular mail addressed as follows:

and the state of the state of the	Carl P. Holm, AICP, RMA Director County of Monterey Resource Management Agency 1441 Schilling Place, South 2 <sup>nd</sup> Floor Salinas, California 93901-4527
TO PROJECT APPLICANT:	Alan Williams Rancho Cañada Venture, LLC PO Box 450 Carmel, California 93921
<b>TO PROJECT</b>	WITH A COPY TO: Jim Moose Bomy/Moose/Manley
APPLICANT'S REPRESENTATIVE:	Remy/Moose/Manley 555 Capitol Mall, Suite 800 Sacramento, California 95814

Notice shall be deemed effective at the time of personal delivery or seventy-two (72) hours after mailing.

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#### Page 6 of 7

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

## COUNTY OF MONTEREY

	Dere
	By: Carl P. Holm, AICP, RMA Director or designee
	Date:
	PROJECT APPLICANT* RANCHO CAÑADA VENTURE, LLC By:
Approved as to Fiscal Provisions	(Signature of Manager) Its: ZA-WLLIAMS, Manager
Ву:	(Print Name and Title)
Auditor/Controller	Date: Art C. Co
Date:	By: ONLY ONE MONPENE MOMBOR (Signature of Manager)
	Its:, Manager, Manager
Approved as to Form Office of the County Counsel Leslie J. Girard, County Counsel	Date:
By: Wendy S. Strimling Assistant County Counsel	

Date:

<sup>\*</sup>INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnership, the full legal 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 PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

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

~

		COUNTY OF MONTEREY
		By: Carl P. Holm, AICP, RMA, Director or designee
		Date: 5/14/2020
•		By: (Signature of Manager)
Appro	ved as to Fiscal Provisions	Its: TZA-INIUANTS, Manager
By:	Blasa	(Print Name and Title)
	Auditor/Controller	Date: A DELO
Date:	5/4/2020	By: Ship by: (Signature of Manager) Its:
Dat <del>e</del> :		(Signature of Manager)
Approv		(Signature of Manager) Its: , Manager
Approv	ed as to Form of the County Counsel . Girard, County Counsel /s/ Wendy S. Strimling	Its: (Signature of Manager) [Its:, Manager
Approv Office J Leslie J	ed as to Form of the County Counsel . Girard, County Counsel	Its: (Signature of Manager) [Its:, Manager

\*INSTRUCTIONS: corporation shall be Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnership, the full legal 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 PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

Page 7 of 7

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# **EXHIBIT** 1

**PROFESSIONAL SERVICES AGREEMENT** 

BETWEEN

RINCON CONSULTANTS, INC. AND THE COUNTY OF MONTEREY TO PROVIDE RANCHO CAÑADA VILLAGE SUBDIVISION PROJECT

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## <u>COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES</u> <u>WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS</u> (\$100,000 AND LESS)

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: Rincon Consultants, 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 a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project

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 \$76,597

3. TERM OF AGREEMENT. The term of this Agreement is from <u>March 10, 2020</u> to <u>September 30, 2021</u>, 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 Revision to Paragraph 8, Indemnification, of Agreement

#### 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

PSA \$100,000 or Less for Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08 1 of 9 Project ID: Rincon Consultants, Inc. Rancho Cafiada Village Subdivision Project Second REIR RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$76,597 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.

8.01. For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

PSA \$100,000 or Less for Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08 Refer to Exhibit B for substitute language to replace strikethrough language above. 2 of 9 Project ID: Rincon Consultants, Inc. Rancho Cafada Village Subdivision Project Second REIR RMA - Planaing Term: March 10, 2020 - September 30, 2021

Not to Exceed: \$76,597

particular and services

(Date)

(Contractors' Initials)

8.02 Indemnification for Design Professional Services Claims: CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY

Refer to Exhibit 6 for substitute language to replace strikethrough language above. (Contractors' Initials) (Date) 8:03. Indemnification for All Other Claims or Loss: For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

9. INSURANCE. Refer to Exhibit B for substitute language to replace strikethrough language above. (Contractors' Initials)

(Date)

## 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 <u>not</u> 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 <u>Insurance Coverage Requirements</u>: 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:

<u>Commercial general liability insurance</u>, 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.

Modification (Justification attached; subject to approval).

3 of 9 Pi

Project ID: Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second RBIR RMA - Planning Term: Marok 10, 2020 - September 30, 2021 Not to Exceed: \$76,597 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. 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.

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Modification (Justification attached; subject to approval).

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9.04.

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<u>Professional liability insurance</u>, 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.

Modification (Justification attached; subject to approval).
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.

PSA \$100,000 or Less for Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08 4 of 9 1

Project ID: Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$76,597 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. <u>Confidentiality.</u> 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. <u>County Records</u>. 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. <u>Maintenance of Records</u>. 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. <u>Access to and Audit of Records.</u> 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.

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10.05. <u>Royalties and Inventions.</u> 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.

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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:

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FOR COUNTY:	FOR CONTRACTOR:							
Dalia Mariscal-Martinez, Management Analyst	Megan Jones, Principal							
Name and Title	Name and Title							
County of Monterey, Resource Management Agency 1441 Schilling Place, South 2nd Floor, Salinas, CA 93901	Rincon Consultants, Inc. 437 Figueroa Street, Suite 203, Monterey, CA 93940							
Address	Address (831) 333-0310							
(831) 755-8966								
Phone	Phone							
A \$100,000 or Less for rveyors, Architects, Engineers & Design Professionals vised 09/30/08	6 of 9 Project ID: Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning							

#### 15. MISCELLANEOUS PROVISIONS.

- 15.01 <u>Conflict of Interest</u>. 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 <u>Amendment</u>. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 <u>Waiver</u>. 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 <u>Contractor</u>. 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 <u>Disputes</u>. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 <u>Assignment and Subcontracting</u>. 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 <u>Successors and Assigns</u>. 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 <u>Compliance with Applicable Law.</u> The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 <u>Headings</u>. 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 <u>Governing Law.</u> This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 <u>Non-exclusive Agreement</u>. 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 <u>Construction of Agreement</u>. 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 <u>Counterparts</u>. 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 <u>Authority.</u> 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 <u>Integration</u>. 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 <u>Interpretation of Conflicting Provisions</u>. 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.

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Project ID: Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$76,597 IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

	COUNTY OF MONTEREY		CONTRACTOR
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By:"			
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Date:			(Signature of Chair, President, or
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	Auditor/Controller		
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\*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.

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 for all Professional Service Agreements

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

PSA \$100,000 or Less for Surveyors, Architects, Engineers & Design Professionals Revised 09/30/08 9 of 9 Project ID: Rincon Consultants, Inc.

Reacho Cañada Village Subdivision Project Second REIR RMA - Planning Term: March 10, 2020 - September 30, 2021 Not to Exceed: \$76,597

## To Agreement by and between County of Monterey, hereinafter referred to as "County"

and

## Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

#### A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

#### PROJECT BACKGROUND:

The previously certified Environmental Impact Report (EIR) evaluated the development of two hundred eighty-one (281) residential units as the proposed Project. The certified EIR also evaluated a one hundred thirty (130) unit alternative at the same level of detail as the proposed Project. In December 2016, the County certified the EIR and approved the one hundred thirty (130) unit alternative. In January 2017, the Carmel Valley Association (CVA) filed a lawsuit on that approval. (Carmel Valley Association, Inc., v. County of Monterey (Monterey Superior Court Case No. 17CV000131).) The trial court issued a writ of mandate and judgment in July 2018 ("court order"), holding that, although the one hundred thirty (130) unit proposal was presented as an alternative in the EIR, this proposal was the true "project" under consideration and hence the EIR's Project Description was legally inadequate. The court further reasoned that, because the range of alternatives within the EIR treated the two hundred eighty-one (281) unit proposal as the "project," the alternatives were inadequate, as they sought to reduce impacts of a two hundred eighty-one (281) unit proposal rather than those of the one hundred thirty (130) unit proposal. The Monterey County Superior Court found that the EIR's Project Description and alternatives analysis were defective but found no problems with the impact analyses and mitigation measures in the EIR, nor did CVA ask the court to find any such additional violations. The County of Monterey ("County") is preparing this Second Revised Draft Environmental Impact Report (Second REIR), and contracting with CONTRACTOR herein, in response to the court judgment and writ of mandate issued by the Monterey Superior Court in Carmel Valley Association, Inc., v. County of Monterey.

CONTRACTOR's understanding of the Project, referred to herein as the Revised Project, that is the subject of the Second REIR is the one hundred thirty (130) unit alternative evaluated in the previously certified EIR and approved by County. The Revised Project includes a minor change to the Project site boundary associated with the area identified in certified EIR as Lot 130. Since the Monterey County Board of Supervisors' 2016 project approval, this lot was transferred to the Santa Lucia Conservancy. Therefore, the Revised Project does not include this parcel in the Project site, and a unit has been added to the main Project location; thus, the Revised Project still is one hundred thirty (130) units.

#### SCOPE OF SERVICES:

CONTRACTOR shall prepare the Second REIR for the one hundred thirty (130) unit Project in compliance with the court order. To comply with the court order, the discussion of impacts and mitigation measures will be revised to omit evaluation of the two hundred eighty-one (281) unit project

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and to replace the alternatives chapter. As recognized in case law, the impact analysis, which was not challenged or invalidated in the afore-referenced litigation, is not required to be revised. Some changes to the existing environment and conditions have occurred since the certified EIR was prepared. For example, when preparation of the certified EIR began, the Project site was still part of a functioning golf course. The golf course has since closed. However, this is not a change or revision to the actual Project. Additionally, because the certified EIR is only being revised and recirculated to correct the matters identified in the court order, CONTRACTOR assumes existing conditions for analysis will be those that were used for the analysis in the certified EIR.

The Second REIR shall be prepared by CONTRACTOR in accordance with the State CEQA Guidelines, which set the standards for adequacy of an EIR. Specifically, the CEQA Guidelines state: An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible.

As CONTRACTOR revises the certified EIR to create the Second REIR, as described above, CONTRACTOR shall also ensure that the analysis is fully defensible. The following outlines the key tasks for completing the Revised DEIR.

## Task 1: Kickoff Meeting and Data Collection and the second second second

Within one (1) week of County's authorization to proceed, CONTRACTOR's Project Manager shall organize a kick-off meeting with County staff and the Project Applicant team to review background technical studies, confirm CONTRACTOR's approach to the environmental evaluation, fine-tune the overall Project Schedule, and establish an operation protocol. CONTRACTOR shall prepare an agenda for the meeting and provide notes after the meeting. It is assumed the meeting shall occur at County Resource Management Agency (RMA) offices and shall not exceed two (2) hours.

As part of this task, CONTRACTOR shall collect and review background data, including the previous DEIR, Revised DEIR, and Final EIR, and other technical studies prepared for the Project.

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## Task 2: Administrative Revised DEIR

CONTRACTOR shall prepare an Administrative Second Revised DEIR in accordance with the State CEQA Guidelines. Because this Administrative Second Revised DEIR will be a revised version of the certified EIR, it will address the same environmental issues that were addressed in the certified EIR. The Administrative Second Revised DEIR shall utilize the certified EIR text, but with revisions to remove discussion of the two hundred eighty-one (281) unit project, and instead reframe the one hundred thirty (130) unit alternative as the proposed Project.

Upon initiating this task, CONTRACTOR shall carry all edits shown in Chapter 4, Revisions to the Recirculated DEIR, from the certified Final EIR into the Word document sections provided, which are from the prior DEIR. These revisions shall not be made in track changes or strikethrough and underline formatting.

The Administrative Second Revised DEIR shall consist of the following sections, which shall be revised versions of these same sections taken from the certified EIR.

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Executive Summary and Table of Contents – The Executive Summary section shall summarize the Revised Project and associated environmental consequences. Impacts shall be presented in tabular format to simplify review by decision-makers and the general Public. The Table of Contents will provide readers with the appropriate page number where each major section of the EIR can be found, consistent with Section 15122 of the CEQA Guidelines.

**Project Description** - This section shall include a description of the Revised Project, focusing on Project characteristics relevant to the analysis, Project objectives, and required discretionary approvals. Construction details, such as duration and potential equipment, shall also be summarized to inform the analysis. The Project Description shall include textual, tabular, and graphic presentation to fully describe the Project and form a basis for the environmental analysis. The Project Description shall describe only a Project consisting of one hundred thirty (130) units. Other changes that have occurred since certification of the EIR, such as changes to the Project site boundary, shall also be discussed in the Project Description.

Introduction and Environmental Setting - These required introductory sections shall lay the groundwork for and summarize the substantive analysis to follow. The introduction shall describe the purpose and legal authority of the EIR, and provide a discussion of lead, responsible, and trustee agencies. The environmental setting shall provide a general description of the existing geographic character of the Project site and the Project site vicinity.

Environmental Impact Analysis - This section shall analyze impacts to each resource area evaluated in the EIR. For each issue area, the analysis shall include four (4) main components:

- Setting description of current conditions, as they existed when the Notice of Preparation (NOP) was prepared for the certified EIR, with respect to the issue in question, including the existing regulatory environment
  - Impact Analysis discussion of potentially significant effects of the proposed Project; impacts are typically compared to established "thresholds of significance"
- Mitigation Measures methods by which significant effects can be reduced or eliminated
- Level of Significance after Mitigation discussion of whether proposed mitigation measures reduce impacts to below the adopted significance threshold

As described above, based on a review of the certified EIR, it appears that the analysis of direct and indirect impacts included a proposed two hundred eighty-one (281) unit project and a one hundred thirty (130) unit alternative. CONTRACTOR assumes that the analysis that was completed for the one hundred thirty (130) unit alternative shall be utilized to suffice for the analysis of the Revised Project.

Other CEQA Required Discussions - This section shall include discussions of other sections required by the CEQA Guidelines and shall include an analysis of potential growth-inducing impacts and irreversible environmental effects. This section shall also address resource areas with all less than significant impacts or no impacts.

**Cumulative Impacts** - Consistent with Section 15130 of the CEQA Guidelines, cumulative impacts resulting from the Revised Project impacts combined with impacts of other projects in the area shall be evaluated. Other projects in the area shall be derived in consultation with County. Mitigation measures shall be provided, as applicable, to reduce significant cumulative impacts of the Project.

Page 3 of 15

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Note: It will need to be determined whether a new cumulative list will be developed for resource topics where a list method was used, given that the list of cumulative projects will have certainly changed since the issuance of the original NOP.

Alternatives – This section shall be prepared in accordance with the requirements of the State CEQA Guidelines, Section 15126.6, and recent court decisions. The purpose of this section shall be to promote informed decision-making and to evaluate a reasonable range of Project alternatives. CONTRACTOR assumes up to six (6) alternatives shall be evaluated (see Attachment A). This shall include the CEQA-required "No Project" alternative and up to five (5) Project alternatives. The one hundred thirty (130) unit alternative shall not be evaluated in this section since it shall constitute the Revised Project evaluated in the Revised DEIR. Per direction from County, this Scope of Services assumes that the alternatives shall be new, with the exception of the forty (40) unit Low Density Alternative, which appeared in the original EIR but will need to be modified so as to be compared against the one hundred thirty (130) unit Revised Project.

**References** - This section of the EIR shall provide a list of references for the citations found in the body of the EIR. A copy of the reference material shall be kept in the Administrative Record, and provided to County on CD, flash drive, or similar digital storage device upon completion of the Second Revised Draft EIR.

Deliverable(s): Digital copy of Administrative Second Revised DEIR in Word and PDF formats

## Task 3: Screencheck Revised DEIR

Following receipt of County edits and comments on the Administrative Second Revised DEIR, CONTRACTOR shall revise the document accordingly and prepare a Screencheck Second Revised DEIR. The Screencheck Second Revised DEIR shall provide County with an opportunity for final review of the document as it will appear when circulated for Public review.

Deliverable(s): Digital copy of Screencheck Revised DEIR in Word and PDF formats

## Task 4: Second Revised DEIR

After comments on the Screencheck Revised DEIR have been fully addressed, CONTRACTOR shall finalize the Second Revised DEIR and produce up to nineteen (19) paper copies of the document suitable for Public distribution, including copies of all referenced technical documents attached on a CD, flash drive, or similar digital storage device, as well as an electronic copy in Word and PDF format for uploading to County's website. As part of this task, CONTRACTOR shall convert final track change edits into <u>underline</u> format, for inclusion in the Second Revised DEIR released to the Public. The Second Revised DEIR shall be circulated for Public comment for a minimum period of forty-five (45) days, as required by CEQA. CONTRACTOR shall prepare a Notice of Completion (NOC) and file it with the State Clearinghouse on behalf of County. CONTRACTOR shall also prepare a Notice of Availability (NOA) for County to use in filing the Second Revised DEIR with the Monterey County Clerk. CONTRACTOR assumes County shall be responsible for required newspaper advertisements and other Public noticing of the document's availability, such as radius label mailing or on-site posting.

Deliverable(s): NOA, NOC, nineteen (19) paper copies of the Revised DEIR, thirty-two (32) CDs, flash drives, or similar digital storage devices, with a digital copy of the Second Revised DEIR in PDF format, one (1) digital copy of Second Revised DEIR in Word and PDF formats, and one (1) CD, flash drive, or similar digital storage device, containing the Administrative Record

Page 4 of 15

## Task 5: Administrative Second Revised Final EIR

Subsequent to receipt of all Public comments on the Second Revised DEIR, CONTRACTOR shall prepare a draft Response to Comments for County review. This will include a list of commenters, comment letters, formal responses to comments, and added or revised text of the Second Revised DEIR that may be necessary. Subsequent to County approval of the draft Response to Comments, CONTRACTOR shall prepare the Administrative Second Final EIR for County review which will include the Response to Comments and text changes resulting from those responses. CONTRACTOR shall circulate the approved Responses to Comments to Public agencies that commented on the Revised DEIR at least ten (10) days prior to the hearing for certification per State CEQA Guidelines 15088.b.

Because the Second Revised DEIR shall be a revised version of the certified EIR, and the analysis shall closely match the analysis that was completed for the one hundred thirty (130) unit alternative in the certified EIR, CONTRACTOR anticipates that most comment letters will be the same or similar to comments that were received on the certified EIR. Therefore, CONTRACTOR anticipates that response to comments in the certified Final EIR can be applied to most comments received on the Second Revised DEIR. However, there is the possibility for receipt of comments addressing new issues or impacts that were not received during circulation of the certified EIR, including receipt of at least one (1) lengthy legal comment in light of the pending litigation. CONTRACTOR anticipates adequately responding with a maximum of eighty (80) professional staff hours. The actual level of effort required to respond shall depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. CONTRACTOR reserves the right to reevaluate the effort level and request a scope amendment upon close of the Public comment period. CONTRACTOR also assumes County shall address any legal comments received and shall provide support responding to comments pertaining to baseline conditions used in the Second Revised DEIR.

**Deliverable(s):** One (1) digital version of the draft Response to Comments in Word and PDF formats, and a cover letter for County use for circulation of the approved comment responses to the Public agencies that commented on the DEIR

## Task 6: Screencheck Second Revised Final EIR

Following receipt of County edits and comments on the Administrative Second Revised Final EIR, CONTRACTOR shall revise the document accordingly and prepare a Screencheck Second Revised Final EIR. The Screencheck Second Revised Final EIR shall provide County with an opportunity for final review of the document as it will appear when presented for potential certification.

Deliverable(s): Digital copy of the Screencheck Second Revised Final EIR in Word and PDF formats

## Task 7: Second Revised Final EIR

Following internal review and approval of the Screencheck Second Revised Final EIR, CONTRACTOR shall produce the Second Final EIR for consideration by County decision makers. The Second Revised Final EIR shall include those pages from the Second Revised Draft EIR on which changes were made, with the changes marked with underlining and strikethrough, as appropriate. The Second Revised Final EIR shall also include the comments received on the Second Revised Draft EIR and responses to those comments, as described above for Task 4, Second Revised DEIR.

Deliverable(s): Eighteen (18) paper copies of the Second Final EIR, seventeen (17) CDs, flash drives, or similar digital storage device with a digital copy of the Second Revised DEIR in PDF format, one (1) digital copy of the Second Final EIR in Word and PDF formats for use on County's website

## Task 8: Mitigation Monitoring and Reporting Program (MMRP) Assistance

CONTRACTOR understands that County typically enters required Project mitigation measures into its Accela computer system. To facilitate this process, CONTRACTOR shall compile all of the mitigation measures identified in the Second Revised Final EIR and provide them in a separate file for County to use for inputting the measures into Accela.

Deliverable(s): Digital copy of the mitigation measures in the Second Revised DEIR (possibly as modified in Second Final EIR) in Word format

## Task 9: Project Management and Hearings

CONTRACTOR's Project Manager shall maintain the Project Schedule and budget and communicate with County and Project Team during preparation of the Second Revised DEIR. This shall include up to three (3) conference calls with County Staff during the course of this Agreement. CONTRACTOR's Project Manager or Principal-in-Charge shall additionally attend up to two (2) Public Hearings on the Project.

## Assumptions:

This Scope of Services incorporates the following assumptions:

- The Second Revised DEIR shall effectively be derived by removing the discussion of the proposed two hundred eighty-one (281) unit Project from the analysis.
- □ The one hundred thirty (130) unit alternative described and analyzed in the certified EIR shall be the Revised Project analyzed in the (first) Revised DEIR, with minor changes to the Project site, such as removal of the area referred to as Lot 130.
- □ The impacts and mitigation measures identified in the certified EIR for the one hundred thirty (130) unit alternative shall be substantially accurate, applicable, and sufficient for completing the analysis of the Revised Project.
- □ Existing baseline conditions shall be assumed to be those that were used for the analysis in the certified EIR, and therefore the same as existing conditions specified in the certified EIR. Any obvious changes (i.e., the discontinuation of the golf course use, the updating of a cumulative projects list for some resource areas) may be discussed in the Second Revised EIR, but only qualitatively so as to preserve the original baseline information.
- □ No new field surveys, field visits, or field investigations shall be required or performed.
- □ The Second Revised DEIR shall address the same CEQA checklist questions that were addressed in the certified EIR.
- □ The Administrative Second Revised DEIR shall be submitted to County in digital format only with one (1) follow up revision requested,
- □ Screencheck versions of the Second Revised Draft EIR and Second Revised Final EIR shall be submitted to County in digital format only.
- □ Appendices to the Second Revised DEIR shall not be provided in printed or hard copy format, but instead attached as CDs, flash drives, or similar digital storage device to the back covers of printed copies of the Second Revised DEIR.
- Responding to comments received on the Second Revised DEIR shall require a maximum of eighty (80) hours of CONTRACTOR's professional staff time.
- □ Comments received on the Second Revised DEIR will not raise new issues from those addressed in the certified EIR, and County shall respond to any legal comments received and support responses to comments pertaining to the use of baseline conditions from the certified EIR.

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- CONTRACTOR's Project Manager or Principal-in-Charge will attend up to two (2) Public Hearings to answer questions but shall not prepare presentation materials.
- Up to three (3) conference calls with County will be required.

County will assume responsibility for the Second Revised EIR and will solely defend the document if legal challenges are presented.

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## Deliverables:

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CONTRACTOR shall produce the deliverables as noted in the above-mentioned tasks. All written reports required under this Agreement shall be delivered as noted above to the following individual and in accordance with the Project Schedule which follows:

Shelley Glennon, Senior Planner

County of Monterey RMA - Land Use & Community Development 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California, 93901-4527 Salinas, California 93901-4527 Email: glennons@co.monterey.ca.us

#### **B**. PAYMENT PROVISIONS

## COMPENSATION/ PAYMENT as a state to be the second second

County shall pay an amount not to exceed \$76,597.00 (\$66,597.00 for Base Budget plus \$10,000.00 in Project Contingency) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR'S compensation for services rendered shall be based on the attached Cost Estimate. an geelek elegendiggin gegele XCF - essen ander Eggele en werden son elegende besteren er erheben a

During this Agreement, County and CONTRACTOR agree that CONTRACTOR shall only be reimbursed for mileage according to the Internal Revenue Service standard mileage rate and not for ad <mark>travel expenses:</mark> พร้างได้สาว (and final and final and the first state of the state of the

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals. PROCEDURES of the second state of the second s

## CONTRACTOR'S BILLING PROCEDURES

Invoices for deliverables under the Agreement shall be submitted when the work product is complete and shall identify the document or work product being delivered. Invoices for services performed in conjunction with a deliverable may be billed monthly (by the tenth day of the month) and will be considered on a time and materials basis. All invoices shall include the following and shall be submitted with the Invoice Coversheet (provided as Attachment B in Exhibit A of this Agreement):

#### Invoice Coversheet 1. and the second second

Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Revised DEIR

Date: Involce No.

and the state of the

March 10, 2020 to September 30, 2021 Agreement Term: \$ 76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency) Agreement Amount:

Page 7 of 15

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Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning

This Invoic	e:		
Task 1:	\$2,630.00	Kickoff and Data Collection	t
Task 2:		Administrative Second Revised DEIR	
	\$1,370	Carry Final EIR Edits into DEIR Sections	
. :	\$516.00	Executive Summary and Table of Contents	and the second second
	\$1,700.00	Project Description	Angelta Bert
	\$225,00	Introduction and Environmental Setting	· · · · · · · · · · · · · · · · · · ·
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	\$485.00	Other CEQA Required Discussions	
	\$715.00	Cumulative Impacts	
	\$9,046.00	Six (6) Alternatives	
	\$798.00	References	
Task 3:	\$3,900.00	Screencheck Second Revised DEIR	
Task 4:	\$6,600.00	Second Revised DEIR	
Task 5:	\$11,060.00	Administrative Second Revised Final EIR	
Task 6:	\$3,900.00	Screencheck Second Revised Final EIR	· · · · · · · · · · · · · · · · · · ·
Task 7:	\$3,779.00	Final EIR	en e
Task 8:	\$230.00	MMRP Assistance	
Task 9:	\$5,120.00	Project Management and Hearings	
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	\$5,859.00	Printing and Reproduction Costs	
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Approved as to Work/Payment: Shelley Glennon, Senior Planner

Date

Payment shall be based upon satisfactory acceptance of each work product/deliverable.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>:

County of Monterey RMA – Finance Division 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the RMA Finance Division at (831) 755-4800 or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

Page 8 of 15

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

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.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

## 2. Invoice Detail

3.

Each invoice for deliverables shall indicate percentage of completion of the task and include the invoice amount in association with the <u>actual</u> deliverables performed and shall be within the "Not to Exceed" budget amount allocated for the Project.

Each invoice for services performed shall indicate the hours worked by task and by staff member, with the corresponding billing rates. Payment of these services will be based on the documentation provided by CONTRACTOR and shall be within the "Not to Exceed" budget amount allocated for the service or services performed.

Any subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

The RMA Director or designee may request documentation of the number of hours worked by task and by staff member, with the corresponding billing rates and/or the subconsultant costs. The information will be used to complete the file and to ensure proper payment for deliverables/services.

### Transfer from Project Contingency Account

Transfer of funding from the Project Contingency Account (total Project Contingency of \$10,000.00) requires the prior written approval of the RMA Director or designee and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the RMA Director and/or Project Planner, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;

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- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five (5) working days of receipt of the recommendation, the RMA Director and/or Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the RMA Director or designee. Within ten (10) working days thereafter, the RMA Director or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant and CONTRACTOR.

Page 9 of 15

Unless the recommended transfer is denied by the RMA Director or designee, the RMA Director or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant's written approval by the RMA Director or designee, the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.

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Page 10 of 15

Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning

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## SCHEDULE

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and the program and the standard standards a se exactive. CONTRACTOR proposes the following optimum schedule for preparation of the Second Revised DEIR and shall commit to maintaining the schedule in the areas which are within CONTRACTOR's control. Delays in receiving requested information or responses by others shall result in at least day-for-day delays in the overall schedule. Substantial changes in the Project Description made after work on the Second Revised DEIR has begun, including proposed land use, density, etc., will also result in delay while the document is rewritten. A graphical schedule of the main tasks is provided below. 

Key Task/Milestone	Duration	Total Time Elapsed
Notice to Proceed	1 day	1 day
Administrative Revised Draft EIR	4 weeks	4 weeks
County review	3 weeks	7 weeks
Screencheck Revised Draft EIR	2 weeks	9 weeks
County review	2 weeks	11 weeks
Revised Draft EIR	1 week	12 weeks
Public Comment Period	45 days	18 weeks
Administrative Final EIR	2 weeks	20 weeks
County review	2 weeks	22 weeks
Screencheck Final EIR	2 weeks	24 weeks
County review	2 weeks	26 weeks
Final EIR	1 week	27 weeks

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Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning

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## ATTACHMENT A

#### List of Project Alternatives for EIR

### 1. Alternative 1 – No Project

Under the No-Project Alternative, existing (2020) conditions consist of cattle grazing on a former golf course on property with five (5) legal parcels. If neither the proposed Project nor any of the other EIR alternatives are approved, the reasonably foreseeable expected use of the five (5) legal parcels, based on current plans and consistent with available infrastructure and community services, would be the construction of five (5) estate homes in which home occupations such would be permitted.

#### 2. Alternative 2 – Hotel Alternative

This Hotel Alternative consists of the development of one hundred seventy-five (175) hotel or timeshare units and twenty (20) employee housing units, six (6) hole reconfiguration of the west golf course, clubhouse and restaurant, tennis clubhouse and four tennis courts, health club, spa, meeting rooms, and administrative offices. Access would be provided, either directly or indirectly, via Carmel Valley Road for visitors and employees of this alternative. This alternative was developed to examine the potential to avoid or lessen traffic related impacts of the Revised Project, specifically during peak hours. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the County Service Area (CSA) 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

#### 3. Alternative 3 – Ninety (90) Unit Low Density Residential.

This alternative would include seventy-three (73) market rate residential units and seventeen (17) affordable units on the same residential site. This alternative was developed to examine the potential to avoid or lessen traffic related impacts. The open space area would be the same as the one hundred thirty (13) Unit Revised Project. This gross density would be considered low density in Carmel Valley, although specific densities within the Village could be medium density in certain locations. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

#### 4. Alternative 4 – Forty (40) Unit Low Density Residential.

This alternative would include thirty-three (33) market rate residential units and seven (7) affordable units on the same residential site [gross density of one (1) unit/acre]. This alternative was developed to examine the potential to avoid or lessen traffic related impacts. The open space area would be the same as the one hundred thirty (130) Unit Revised Project. This gross density would be considered low density [one (1) unit/acre] in Carmel Valley, although specific densities within the Village could be medium density in certain locations. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

#### ... Page 13 of 15

Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning

#### 5. Alternative 5 - Energy Efficient Clustered Residential

This alternative includes one hundred thirty (130) residential units, with clustering of twenty-five (25). condominium units to allow for use of solar infrastructure to reduce Greenhouse Gas (GHG) related impacts, This alternative was developed to examine the potential to reduce GHG related impacts. The configuration of these condominium units include a "solar village" comprising eighteen (18) condos on the front parcel, and seven (7) condo units [two (2) tri-plexes and a half plex] on the west side of the Project site. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014). This alternative reflects a reasonable evolution of the one hundred thirty (130) unit proposed Project (formulated in 2016) intended to address the State of California's increased focus on energy conservation, and solar power in particular, over the last few years.

### 6. Alternative 6 - One Hundred Sixty (160) Unit Medium Density Residential

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Like the Energy Efficient Clustered Residential Alternative (Alternative 5), this alternative would include a one hundred thirty (130) unit residential subdivision consisting of one hundred five (105) market rate homes, with clustering of twenty-five (25) condominium units to allow for use of solar infrastructure to reduce GHG related impacts. The alternative assumes, however, that the owners of as many as thirty (30) single family lots would ultimately obtain permission from the County to build accessory dwelling units, consistent with recent changes to California law. The open space area would be the same as for the Energy Efficient Clustered Residential Alternative. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014). 计算法输入 网络拉马马马克 法法公共公共  $\frac{1}{(2\pi q_1^2+1)} \frac{1}{(2\pi q_2^2+1)} \frac{1}{(2\pi q_1^2+1)} \frac{1}{(2\pi q_2^2+1)} \frac{1}{(2\pi q_1^2+1)} \frac{1}{(2\pi q_$ 

Page 14 of 15

Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR RMA - Planning

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#### **EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

**ATTACHMENT B** 

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Invoice No.

# **Invoice Coversheet**

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March 10, 2020 to September 30, 2021 Agreement Term; Agreement Amount: \$76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency)

This Invo	ice:	an an an tha tha bha bha bha bha tha tha tha tha tha tha tha tha tha t
Task 1:	\$2,630.00	Kickoff and Data Collection
Task 2:		Administrative Second Revised DEIR
	\$1,370	Carry Final EIR Edits into DEIR Sections
	<b>\$516.0</b> 0	Executive Summary and Table of Contents
	\$1,700.00	Project Description
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	\$8,586.00	Environmental Impact Analysis
	\$485.00	Other CEQA Required Discussions
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Task 7:	\$3,779.00	Second Revised Final EIR
Task 8:	\$230.00	MMRP Assistance
Task 9:	\$5,120.00	Project Management and Hearings
		Direct Cost Summary
	\$78.00	Vehicle Costs
	\$5,859.00	Printing and Reproduction Costs
	\$66,597.00	GRAND TOTAL:

#### **REMAINING BALANCE:**

Approved as to Work/Payment: Shelley Glennon, Senior Planner

Date

Rincon Consultants, Inc. Rancho Cañada Village Subdivision Project Second REIR. RMA - Planning

#### 8. **INDEMNIFICATION**.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

#### 8.02 Indemnification for Design Professional Services Claims:

CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

#### 8.03 Indemnification for All Other Claims or Loss:

For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY.

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# APPLICABLE FEE SCHEDULE, DATED SEPTEMBER 17, 2019

MONTEREY COUNTY LAND USE FEES MATRIX Approved September 17, 2019

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Proposed 2019 Land Use Fee Matrix for information purposed only. Please refer to department Fee Articles for adopted fee schedules.

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Tee Type (1) (2)         RMA         Tee Type (2)		RMAA         RMAA           19         Rivergeneed File           19         Storage Fee           20,000         5         340,00           20,000         5         340,00           7000         5         119,00           7000         5         170,00           20,000         5         340,00           20,000         5         340,00           7000         5         119,00           20,000         5         85,00           7000         5         119,00           20,000         5         119,00           20,000         5         119,00           20,000         5         119,00           3,000         5         119,00           7,000         5         119,00           7,000         5         119,00           7,000         5         119,00           7,000         5         1119,00		The rest of rest of rest of rest of rest	Proposed Fee           2011         Proposed Fee           2019         2.019           2.000         5         1,115           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,230           2.000         5         2,000           2.000         5         2,000           2.000         5         2,000           2.000         5         2,000           2.000         5         2,000           2.000         5         2,000           2.000         5         2,000           2.000         5         2,000           2.000         5         2,000	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	EHB Proposed Fee 2019- OWLS Water System 5 2,500 5 5 7,83 5 5 7,83 5 7	LB Proposed Fee 2019: 500 500 2,500 2,500	Proposed 2010
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Fuel Management Plan Review     No Fee     (a)     (b)     (b)     (c)     (c)       File Management Plan Review     Inter 1     5     590     5       Review     Inter 1     5     5     1625     5       Review     Inter 1     5     5/37     5     5       Review     Inter 3     5     5/37     5     5       Access Strip     Inter 3     5     3/37     5     5       Createral     Inter 5     5     5     3/37     5       Multiantiscon Act     Inter 5     5     3     5     4/23     5       Multiation     Inter 5     5     5     4/32     5     5     5     5       Multiation     Inter 5     5     5     4/32     5     5     5     5     5     5       Montact Processing     Inter 5     5     5     5     1/179     5<	S         S           590         5           590         5           530         5           3,537         5           3,537         5           3,537         5           3,537         5           3,537         5           3,540         5           3,540         5           3,549         5           3,549         5						783 783 783		
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# **Monterey County**

**Board Report** 

Legistar File Number: A 21-041

Item No.32

Board of Supervisors Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021

Version: 1

Current Status: RMA Public Works -Consent Matter Type: BoS Agreement

a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

#### **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

#### SUMMARY:

The recommended actions would allow for the approval of Amendment No. 2 to Standard Agreement (SA) No. A-13479 with Smith & Enright Landscaping, Inc. (Smith & Enright) to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine (hereinafter, CSA 15) to update landscape maintenance pricing costs effective March 8, 2021, to increase by the amount of \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022.

#### DISCUSSION:

The Department of Public Works, Facilities, & Parks' (PWFP) Public Works and Facilities Grounds Crew is structured to address maintenance needs of grounds at or near County-owned facilities. CSA 15 is located in the Toro Park community, which is located approximately six (6) miles from the Government Center. The existing Grounds Crew does not have adequate labor or equipment resources to maintain appearance and fire safety requirements for open or partially landscaped areas. Therefore, the County solicited proposals from qualified consultants through Request for Proposals (RFP) #10596 for landscape and open space maintenance services for CSA 15 - Toro Park and Serra Village, in accordance with the specifications set forth in the RFP. Smith & Enright was selected based on their expertise and capabilities to provide landscape and open space maintenance services through a competitive selection process in accordance with County policies and State laws under RFP #10596. In addition to their expertise and capabilities, Smith & Enright was selected due to being a local and the lowest responsible bidder.

Approval of Amendment No. 2 to the SA would allow Smith & Enright to continue to provide landscape and open space maintenance services for CSA 15 to update landscape maintenance pricing costs effective March 8, 2021, to increase the not to exceed amount of \$150,900 by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022.

Attachments A, B and C are provided for reference. Attachment D provides a summary of the SA to date and Attachment E provides a summary of the SA current annual expenditures and balance.

#### OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller have reviewed and approved Amendment No. 2 as to form and fiscal provisions, respectively.

#### FINANCING:

Costs associated with the proposed Amendment No. 2 are included in the adopted Fiscal Year (FY) 2020-21 Adopted Budget, Fund 056 Unit 8198, Appropriation Unit RMA052. The current budget includes \$45,000 for landscape and open space maintenance services, which is adequate to cover costs associated with Amendment No. 2.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Appropriate landscaping management and maintenance of CSA 15 open space and public parks promote the Monterey County Board of Supervisors Strategic Initiatives for Administration, Health & Human Services, Infrastructure, and Public Services. Effective administration of the CSA increases public health and wellness by affording nearby opportunities for outdoor activities and recreation in the CSA's well-maintained open space areas and parks. Smith & Enright employs environmentally sound landscaping practices and performs regular maintenance of sprinkler systems for the continued viability of Monterey County infrastructure. Public safety is improved by effective, timely management and reduction of wildfire fuel in the open space areas.

Economic Development

- <u>X</u> Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

Prepared by: Lynette Redman, Management Analyst III (831) 796-6038 Reviewed by: Tom Moss, Senior Water Resources Hydrologist Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

Attachments:

Attachment A - A2 to SA

Attachment B - A1 to SA

Attachment C - SA

Attachment D - Summary of SA

Attachment E - Summary of SA Annual Expenditures and Balance

(Attachments are on file with the Clerk of the Board)



# **Monterey County**

**Board Report** 

Legistar File Number: A 21-041

Board of Supervisors

Item No.

Chambers 168 W. Alisal St., 1st Floor Salinas, CA 93901

March 02, 2021

Introduced: 2/12/2021 Version: 1 Current Status: Agenda Ready Matter Type: BoS Agreement

a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and
b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

# **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

#### SUMMARY:

The recommended actions would allow for the approval of Amendment No. 2 to Standard Agreement (SA) No. A-13479 with Smith & Enright Landscaping, Inc. (Smith & Enright) to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine (hereinafter, CSA 15) to update landscape maintenance pricing costs effective March 8, 2021, to increase by the amount of \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022.

#### Legistar File Number: A 21-041

#### DISCUSSION:

The Department of Public Works, Facilities, & Parks' (PWFP) Public Works and Facilities Grounds Crew is structured to address maintenance needs of grounds at or near County-owned facilities. CSA 15 is located in the Toro Park community, which is located approximately six (6) miles from the Government Center. The existing Grounds Crew does not have adequate labor or equipment resources to maintain appearance and fire safety requirements for open or partially landscaped areas. Therefore, the County solicited proposals from qualified consultants through Request for Proposals (RFP) #10596 for landscape and open space maintenance services for CSA 15 - Toro Park and Serra Village, in accordance with the specifications set forth in the RFP. Smith & Enright was selected based on their expertise and capabilities to provide landscape and open space maintenance services through a competitive selection process in accordance with County policies and State laws under RFP #10596. In addition to their expertise and capabilities, Smith & Enright was selected due to being a local and the lowest responsible bidder.

Approval of Amendment No. 2 to the SA would allow Smith & Enright to continue to provide landscape and open space maintenance services for CSA 15 to update landscape maintenance pricing costs effective March 8, 2021, to increase the not to exceed amount of \$150,900 by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022.

Attachments A, B and C are provided for reference. Attachment D provides a summary of the SA to date and Attachment E provides a summary of the SA current annual expenditures and balance.

#### OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller have reviewed and approved Amendment No. 2 as to form and fiscal provisions, respectively.

#### FINANCING:

Costs associated with the proposed Amendment No. 2 are included in the adopted Fiscal Year (FY) 2020-21 Adopted Budget, Fund 056 Unit 8198, Appropriation Unit RMA052. The current budget includes \$45,000 for landscape and open space maintenance services, which is adequate to cover costs associated with Amendment No. 2.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Appropriate landscaping management and maintenance of CSA 15 open space and public parks promote the Monterey County Board of Supervisors Strategic Initiatives for Administration, Health & Human Services, Infrastructure, and Public Services. Effective administration of the CSA increases public health and wellness by affording nearby opportunities for outdoor activities and recreation in the CSA's well-maintained open space areas and parks. Smith & Enright employs environmentally sound landscaping practices and performs regular maintenance of sprinkler systems for the continued viability of Monterey County infrastructure. Public safety is improved by effective, timely management and reduction of wildfire fuel in the open space areas.

- \_ Economic Development
- <u>X</u> Administration

Legistar File Number: A 21-041

- X Health & Human Services
- X Infrastructure
- X Public Safety

Prepared by: Lynette Redman, Management Analyst III (831) 796-6038 Reviewed by: Tom Moss, Senior Water Resources Hydrologist Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Parks

Attachments: Attachment A - A2 to SA Attachment B - A1 to SA Attachment C - SA Attachment D - Summary of SA Attachment E - Summary of SA Annual Expenditures and Balance (Attachments are on file with the Clerk of the Board)

# AMENDMENT NO. 2 TO STANDARD AGREEMENT BETWEEN COUNTY OF MONTEREY AND SMITH & ENRIGHT LANDSCAPING, INC.

**THIS AMENDMENT NO. 2** to Standard Agreement No. A-13479 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Smith & Enright Landscaping, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

**WHEREAS,** CONTRACTOR entered into Standard Agreement No. A-13479 with County on March 23, 2017 (hereinafter, "Agreement") to provide landscape and open space maintenance services (hereinafter, "services") for County Service Area (CSA) 15 which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine (hereinafter, "Project") through March 7, 2020, with the option to extend the Agreement for two (2) additional one (1) year period(s), for an amount not to exceed \$113,175; and

**WHEREAS,** Agreement was amended by the Parties on March 4, 2020 (hereinafter, "Amendment No. 1") to extend the term for one (1) additional year through March 7, 2021 and to increase the amount by \$37,725 which resulted in a total not to exceed amount of \$150,900; and

WHEREAS, County has a continued need for services; and

**WHEREAS,** CONTRACTOR's Landscape Maintenance Pricing in Appendix 1 of the Agreement requires an update effective March 8, 2021; and

WHEREAS, additional time and funding are necessary; and

**WHEREAS,** the Parties wish to further amend the Agreement to update the Landscape Maintenance Pricing, to extend the term for one (1) additional year to March 7, 2022, and to increase the amount by \$42,310 for a total amount not to exceed \$193,210 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 2.

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend the second sentence of Paragraph 2.01 of Section 2.0, Payment Provisions, to read as follows:

The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of  $\frac{193,210}{2}$ .

2. Amend the first sentence of Paragraph 3.01 of Section 3.0, Term of Agreement, to read as follows:

The term of this Agreement is from <u>March 7, 2017</u> to <u>March 7, 2022</u>, unless sooner terminated pursuant to the terms of this Agreement.

- 3. Delete Appendix 1 Landscape Maintenance Pricing in Exhibit A Scope of Services/Payment Provisions of the Agreement and replace with Appendix 1A Landscape Maintenance Pricing, effective March 8, 2021.
- 4. Amend Paragraph 4.01 of Section 4.0, Scope of Services and Additional Provisions, to add Appendix 1A Landscape Maintenance Pricing, effective March 8, 2021.
- 5. Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Section 6.0, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number #3000\*3013, Project name (*Landscape and Open Space Services for CSA 15 (RFP #10596)*) and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>:

## County of Monterey Department of Public Works, Facilities, & Parks (PWFP) – Finance 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to PWFP Finance at (831) 755-4800 or via email to: <u>RMA-Finance-AP@co.monterey.ca.us</u>.

- 6. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
- 7. This Amendment No. 2 and the previous Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
- 8. The recitals to this Amendment No. 2 are incorporated into the Agreement and this Amendment No. 2.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY	CONTRACTOR*
By:	Smith & Enright Landscaping, Inc.
Contracts/Purchasing Officer	Contractor's Business-Name
Date:	By: (Signature of Charr, President or Vice President)
Approved as to Form	Its: James Smith, President
Office of the County Counsel-Risk Manager	(Print Name and Title)
Leslie J. Girard, County Counsel-Risk Manager	Date: 2. 4. 2021
By: CB3342707AC641A. Mary Grace Perry Deputy County Counsel	By: Prhad Cright
Date: 2/4/2021	By. (Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)
	Its: Richard A. Enright, Treasurer
	(Print Name and Title)
Approved as to Fiscal Provisions By: D3834BFEC1D8449 Auditor/Controller	Date: 2.4.2021
Date: 2/4/2021	
Approved as to Indemnity and Insurance Provisions Office of the County Counsel-Risk Manager	
By:	
Leslie J. Girard County Counsel-Risk Manager	
Date:	

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

> Page 3 of 3 Amendment No. 2 to Standard Agreement No. A-13479 Smith & Enright Landscaping, Inc. Landscape and Open Space Maintenance Services for CSA 15 (RFP #10596) Department of Public Works, Facilities, & Parks Term: March 7, 2017 – March 7, 2022 Not to Exceed: \$193,210

# APPENDIX 1A - REVISED LANDSCAPE MAINTENANCE PRICING

Effective March 8, 2021

ITEM	JOB DESCRIPTION	FREQUENCY	TOTAL COST
1.1	Mini-Park Maintenance		\$9,720.00
	-	<u>March</u> - November	(\$1,080.00/month)
		<u>Bi-Weekly</u> <u>Decembe</u> r <u>- Februa</u> ry	\$3,240.00 (\$1,080.00/month)
		Subtotal	\$12,960.00
1.2	Maintenance of Greenbelt and Open Space Areas	4 times per year: Usually March, May, June and October (Dates may be adjusted depending on seasonal conditions and Contractor recommendation)	\$21,200.00 (\$5,300.00/month)
		Subtotal	\$21,200.00
1.3	Maintenance of Sidewalks and Plant Materials along Portola Drive	4 times per year: Usually March, May, June and October (Dates may be adjusted depending on seasonal conditions and Contractor recommendation)	\$3,760.00 (\$940.00/month)
		Subtotal	\$3,760.00
1.4	Maintenance of Toreador   Median Island	4 times per year: Usually March, May, June and October (Dates may be adjusted depending on seasonal conditions and Contractor (recommendation)	\$440.00 (\$110.0/month)
		Subtotal	\$440.00
1.5	Sidewalk Weed Control Through Chemical Application	1 time per year:March(Dates may be adjusted depending on seasonal conditions and Contractor recommendation)	
		Subtotal	\$1,500.00
1.6	Turf Fertilization	2 times per year: April and October (Dates may be adjusted depending on seasonal conditions and Contractor recommendation)	\$1,450.00 (\$725.00/month)
		Subtotal	\$ 1,450.00
1.7	Irrigation System Maintenance	As Needed	
	_	Subtotal	\$1,000.00
		TOTAL COST	\$42,310.00

Page 1 of 1

Smith & Enright Landscaping, Inc. Landscape and Open Space Maintenance Services for CSA 15 (RFP #10596) Department of Public Works, Facilities, & Parks

Legistar File ID No. A 20-030 Agenda Item No. 25



# Monterey County Board of Supervisors

# **Board Order**

168 West Alisal Street, 1st Floor Salinas, CA 93901 831.755.5066 www.co.monterey.ca.us

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Mary L. Adams to:

#### Agreement No.: A-13479

a. Approve Amendment No. 1 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to increase the not-to-exceed amount by \$37,725, for a total amount not to exceed of \$150,900, and extend the expiration date from March 7, 2020 for one (1) additional year through March 7, 2021, for a revised term from March 7, 2017 to March 7, 2021, with the option to extend the Agreement for one (1) additional one (1) year period; and

b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 1 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

PASSED AND ADOPTED on this 3rd day of March 2020, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams NOES: None ABSENT: None (Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting March 3, 2020.

Dated: March 3, 2020 File ID: A 20-030 Agenda Item No.: 25

Valerie Ralph, Clerk of the Board of Supervisors County of Monterey, State of California

Joel G. Pablo, Deputy

#### AMENDMENT NO. 1 TO STANDARD AGREEMENT BETWEEN COUNTY OF MONTEREY AND SMITH & ENRIGHT LANDSCAPING, INC.

**THIS AMENDMENT NO. 1** to Standard Agreement No. A-13479 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Smith & Enright Landscaping, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Standard Agreement No. A-13479 with County on March 23, 2017 (hereinafter, "Agreement") to provide landscape and open space maintenance services (hereinafter, "services") for County Service Area (CSA) 15 which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine (hereinafter, "Project") through March 7, 2020, with the option to extend the Agreement for two (2) additional one (1) year period(s), for an amount not to exceed \$113,175; and

WHEREAS, County has a continued need for services; and

WHEREAS, additional time and funding are necessary; and

WHEREAS, the Parties wish to amend the Agreement to extend the term for one (1) additional year to March 7, 2021 and to increase the amount by \$37,725 for a total amount not to exceed \$150,900 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 1.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

- 1. Amend the second sentence of Paragraph 2.01 of Section 2.0, Payment Provisions, to read as follows:
- The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of <u>\$150,900</u>.
- 2. Amend the first sentence of Paragraph 3.01 of Section 3.0, Term of Agreement, to read as follows:

The term of this Agreement is from <u>March 7, 2017</u> to <u>March 7, 2021</u>, unless sooner terminated pursuant to the terms of this Agreement.

3. Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Section 6.0, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number #3000\*3013, Project name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to <u>RMA-Finance-AP@co.monterey.ca.us</u>:

:

## County of Monterey Resource Management Agency (RMA) – Finance Division 1441 Schilling Place, South 2<sup>nd</sup> Floor Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the RMA Finance Division at (831) 755-4800 or via email to: <u>RMA-Finance-AP@co.monterey.ca.us</u>.

- 4. In all places within the Agreement, any reference to the County's address at 168 West Alisal Street, 2<sup>nd</sup> Floor, Salinas, California 93901 is hereby replaced with 1441 Schilling Place, South 2<sup>nd</sup> Floor, Salinas, California 93901-4527
- 5. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
- 6. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
- 7. The recitals to this Amendment No. 1 are incorporated into the Agreement and this Amendment No. 1.

Page 2 of 3

Amendment No. 1 to Standard Agreement No. A-13479 Smith & Enright Landscaping, Inc. Landscape and Open Space Services for CSA 15 (RFP #10596) RMA Term: March 7, 2017 – March 7, 2021 Not to Exceed: \$150,900 IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

**CONTRACTOR\*** 

COUNTY OF MONTEREY

D	
By:	Smith & Enright Landscaping, Inc.
Contracts/Purchasing Officer	Contractor's Business Name
Date:	By: Cignature of Chafr, President or Vice President)
Approved as to Form Office of the County Counsel	Its: Richard Enright, Vice President (Print Name and Title)
Leslie J. Girard, County Counsel	(init value and inte)
	Date: 2-7.20
By: Mary Grace Perry Deputy County Counsel	By: Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)
Date:	Its: James Smith, Secretary
	(Print Name and Title)
Approved as to Fiscal Provisions	Date: 2-7.20
Ву:	
Auditor/Controller	
Date:	
Approved as to Indemnity and Insurance Provision Office of the County Counsel-Risk Management Leslie J. Girard, County Counsel-Risk Manager	IS
Ву:	
Name:	
Title:	
Date	

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

> Page 3 of 3 Amendment No. 1 to Standard Agreement No. A-13479 Smith & Enright Landscaping, Inc. Landscape and Open Space Services for CSA 15 (RFP #10596) RMA Term: March 7, 2017 – March 7, 2021 Not to Exceed: \$150,900

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY	CONTRACTOR*
By: Anno	
Contracts/Purchasing Officer	Smith & Enright Landscaping, Inc.
	Contractor's Business Name
Date: 03.04.2020	By: Purlage
	(Signature of Chair, President or Vice President)
Approved as to Form	Its: Richard Enright, Vice President
Office of the County Counsel	(Print Name and Title)
Leslie J. Girard, County Counsel	
By: Man Drole Nort	Date: 2. 7. 20
Mary Grace Perry	() X +
Deputy County Counsel	By: And
	(Signature of Secretary, Asst. Secretary, CFO
Date: $2 - 10 - 200$	Treasurer or Asse. Treasurer)
	Its: James Smith, Secretary
	(Print Name and Title)
Approved as to Fiscal Provisions	2 7 2 2
P	Date:2-7.20
By:Auditor/Controller	
Date: 02/12/2020	
Approved as to Indemnity and Insurance Provisions	
Office of the County Counsel-Risk Management	
Leslie J. Girard, County Counsel-Risk Manager	
Ву:	
Name:	
Title:	
Date:	
INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit	corporations, the full legal name of the comparation of the

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

Page 3 of 3

Amendment No. 1 to Standard Agreement No. A-13479 Smith & Enright Landscaping, Inc. Landscape and Open Space Services for CSA 15 (RFP #10596) RMA Term: March 7, 2017 – March 7, 2021 Not to Exceed: \$150,900

# ATTACHMENT D -SUMMARY OF STANDARD AGREEMENT ANNUAL EXPENDITURES AND BALANCE

# Smith & Enright Landscaping, Inc. Multi-Year Agreement (MYA) #3000\*3013

Fiscal Year (FY) (July 1 – June 30)	SA Beginning Balance	SA Additions	SA Expenditures	SA Ending Balance
FY 2016-2017 (SA Start Date: 3/7/17)	\$113,175	\$0	\$17,437	\$95,738
FY 2017-2018	\$95,738	\$0	\$0	\$95,738
FY 2018-2019	\$95,738	\$0	\$49,092	\$46,646
FY 2019 – 2020	\$46,646	\$37,725 (Pending BOS Approval)	\$21,989 (through 1/31/20)	\$24,657 (through 1/31/20)
Total	N/A	\$37,725 (Pending BOS Approval)	\$88,518 (through 1/31/20)	N/A

# ATTACHMENT D - SUMMARY OF STANDARD AGREEMENT

# Smith & Enright Landscaping, Inc. Multi-Year Agreement (MYA) #3000\*3013

SA/ Amendment	Board of Supervisors / Contracts/Purchasing Approval	SA/Amendment Amount/Increase and Term/Extension	SA Total
SA	March 14, 2017 / March 23, 2017	Original Amount: \$113,175 Original Term: March 7, 2017 to March 7, 2020	\$113,175
Amendment No. 1	March 3, 2020 / March 4, 2020	Increased Amount by \$37,725 Extended Term to March 7, 2021	\$150,900
Amendment No. 2	Pending / Pending	Increase Amount by \$42,310 Extend Term to March 7, 2022	\$193,160

## ATTACHMENT E -SUMMARY OF STANDARD AGREEMENT ANNUAL EXPENDITURES AND BALANCE

# Smith & Enright Landscaping, Inc. Multi-Year Agreement (MYA) #3000\*3013

Fiscal Year (FY) (July 1 – June 30)	SA Beginning Balance	SA Additions	SA Expenditures	SA Ending Balance
FY 2016-2017 (SA Start Date: 3/7/17)	\$113,175	\$0	\$17,437	\$95,738
FY 2017-2018	\$95,738	\$0	\$0	\$95,738
FY 2018-2019	\$95,738	\$0	\$49,092	\$46,646
FY 2019 – 2020	\$46,646	\$37,725	\$45,901	\$38,470
FY 2020 – 2021	\$38,470	\$42,310 (Pending BOS Approval)	\$0 (through 1/22/21)	\$80,035 (through 1/22/21)
Total	N/A	\$79,985 (\$42,310 Pending BOS Approval)	\$112,430 (through 1/22/21)	N/A

\*Note: Amounts have been rounded to the nearest dollar.



# **Monterey County**

**Board Report** 

Legistar File Number: 21-194

Salinas, CA 93901 March 02, 2021

Board of Supervisors Chambers

168 W. Alisal St., 1st Floor

Item No.

Introduced: 2/26/2021

Version: 1

Current Status: Agenda Ready Matter Type: General Agenda Item

## Added to Closed Session

1. (4) Designated representatives: Irma Ramirez-Bough, Kim Moore and Ariana Hurtado\_Employee Organization(s): Units H, J and S