

COUNTY OF SAN MATEO

37

Inter-Departmental Correspondence

Date: July 17, 2001

Board Meeting Date: July 31, 2001

TO: Honorable Board of Supervisors
FROM: Neil R. Cullen, Director of Public Works
SUBJECT: Amendment to Agreement for Omnibus Engineering Services - County Wide Area

RECOMMENDATION

Adopt a resolution authorizing the President of the Board to execute amendments to the agreements with four (4) consulting firms for Omnibus Engineering Services.

Previous Board Action

Executed one-year agreements with five (5) consultants for Omnibus Engineering Services.

Key Facts

1. The terms of the original agreements provide that the agreements can be extended for two additional one-year terms as appropriate.
2. Work has been assigned to three of the five consultants and an extension of time for at least these three agreements is necessary as the assigned work will not be completed prior to the expiration of agreement's initial term.
3. Amendments are also necessary in order to add the non-discrimination and the equal employee benefits requirements recently approved by your Board to all five of the Omnibus Agreements.
4. One consulting firm is still reviewing the amendment conditions.

Discussion

The Omnibus Agreements were entered into with five (5) consultant firms to provide the Department the flexibility to respond to the needs of the various groups or agencies we serve in a timely fashion. The type of projects may include preliminary study, design and/or construction management of street improvements, slides repairs, drainage system improvement, sanitary sewers improvement, or traffic control and channelization improvements.

Honorable Board of Supervisors

**Subject: Amendment to Agreement for Omnibus Engineering Services - County
Wide Area**

July 17, 2001

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The consultants selected and for which the County entered into Omnibus agreements are as follows: Brian Kangas Foulk - Redwood City, Harris & Associates - Concord, Kleinfelder - South San Francisco, Mark Thomas - Redwood City, Winzler and Kelly - San Francisco. We have assigned a sewer project to Brian Kangas Foulk, a slide repair to Winzler & Kelly, a pedestrian bridge to Mark Thomas, and are currently negotiating a reconstruction project with Harris and Associates.

The proposed amendments will extend the term of the agreements for one year (to August 8, 2002) and incorporate the non-discrimination and equal benefit clauses pursuant to your Board's directives. The third year extension of any one agreement can be authorized by the Director of Public Works as provided by the language in the agreements

Fiscal Impact

There is no additional impact associated with executing the amendment the Omnibus Engineering Service Agreements, as the original not to exceed amount (\$150,000 per agreement) is not being increased. The cost of specific work as assigned will be financed by the fund that the work is being provided to.

A form of resolution and amendment to the agreements have been reviewed and approved by County Counsel and the four (4) firms have executed their agreement's respective amendment.



Neil R. Cullen
Director of Public Works

NRC:BEK:sdd

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File No.: F-36 (363)

cc: Milt Mares, County Counsel
Priscilla Harris, Risk Manager
Brian C. Lee, P.E., Division Manager, Programs and Engineering Services
Bruce E. Kirk, Principal Civil Engineer, Project Development and Design

Resolution No. _____

Board of Supervisors, County of San Mateo, State of California

* * * * *

**Resolution Authorizing Execution of Amendment to
Omnibus Engineering Agreements with Four (4) Engineering Firms
to Provide Engineering Services on an As Needed Basis by the County - County Wide Area**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, on August 8, 2000, this Board authorized the execution of agreements to engage the services of professional technical experts (consultants) on a temporary basis for specific projects; and

WHEREAS, the projects assigned or to be assigned to the consultants will not be completed before the one year expiration date stipulated in said agreements; and

WHEREAS, it is necessary and desirable to extend the time limit for an additional year with the firms of Brian Kangas Foulk, Harris & Associates, Mark Thomas, Winzler & Kelly; and

WHEREAS, the County has established non-discrimination requirements and equal benefits regulations which also need to be incorporated into said executed agreements; and

WHEREAS, there has been presented to this Board forms of amendments to said agreements and this Board has considered same.

NOW, THEREFORE, IT IS HEREBY ORDERED AND DETERMINED that the President of this Board of Supervisors be, and is hereby, authorized and directed to execute said amendment to said agreements for and on behalf of San Mateo County and the Clerk of this Board shall attest to the President's signature thereto.

* * * * *

**AMENDMENT TO THE AGREEMENT
FOR OMNIBUS ENGINEERING SERVICES
IN SAN MATEO COUNTY**

This Amendment to Agreement, entered into this ___ day of ____ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, California, 94063-1665, hereinafter called "COUNTY" and **Harris & Associates Inc.**, hereinafter called "CONSULTANT".

W I T N E S S E T H:

WHEREAS, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of COUNTY; and

WHEREAS, on **August 8, 2000**, the parties hereto entered into an Agreement for Engineering Services; and

WHEREAS, it is necessary to extend the time and amend portions of the previously executed Agreement; and

NOW, THEREFORE, the COUNTY and the CONSULTANT agree to amend the agreement as follows:

SECTION 13. Term of Agreement

The term of Agreement, with amendments as stated herein, shall be extended for one (1) year, Aug. 8, 2002, from the stipulated termination date of the initial Agreement, which was executed on **Aug. 8, 2000**. Said Agreement, with stipulated amendments as herein described, may be extended for an additional one (1) year period beyond the first extension by written notification of the Director of Public Works. The maximum term limit of the Agreement, including subsequent extensions, as authorized by the Director of Public Works, shall not exceed three (3) years from the date of execution of the original Agreement.

SECTION 19. Employee Benefits

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. Exhibit C and D Attached.

SECTION 20. Non-Discrimination

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

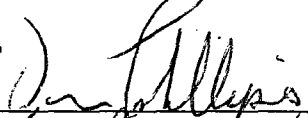
SECTION 21. NOTIFICATIONS

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

COUNTY

Neil R. Cullen, Director of Public Works
(or his designated representative)
COUNTY of San Mateo, DPW
555 County Center, 5th Floor
Redwood City, CA 94063-1665

CONSULTANT



Vernon Phillips, Vice Pres.
Harris & Assoc.

170 Mason Circle, Concord, CA.

In all other respects, the Agreement shall remain unchanged.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands on the day and year first above written.

"COUNTY"

SAN MATEO COUNTY

BY

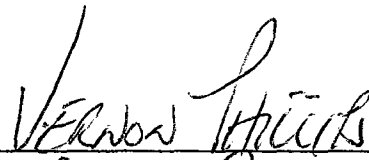
Michael D. Nevin, President
Board of Supervisors, County of San Mateo

ATTEST:

Clerk of said Board

"CONSULTANT"

BY:



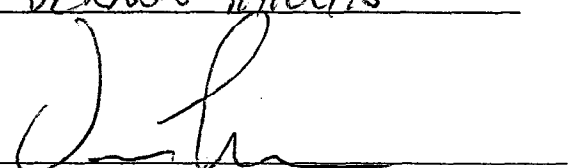


Exhibit "C"**Equal Benefits Ordinance****CHAPTER 2.93**ORDINANCE NO 04026

**An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code
to Provide for Non-Discrimination by County Contractors in the
Provision of Employee Benefits**

WHEREAS, employee benefits routinely comprise a significant proportion of total employee compensation; and

WHEREAS, discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work; and

WHEREAS, County of San Mateo law prohibits discrimination based on marital status and/or sexual orientation; and

WHEREAS, it is the County's intent, through the contracting practices outlined herein, to equalize the total compensation between similarly situated employees with spouses and employees with domestic partners;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO
AS FOLLOWS:**

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new Chapter 2. 93 to read as follows:

Chapter 2. 93 County Contracts - Non-Discrimination in Benefits

2.93.010 Definitions.

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for

public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.

- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

2.93.020 Discrimination in the provision of benefits prohibited.

(a) No Contractor on a County Contract shall discriminate in the provision of Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing

a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.

2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;
2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

- (c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.
- (d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.
- (e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

2.93.030 Application of Chapter.

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

2.93.040 Powers and duties of the County Manager.

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.

(c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:

1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
2. Contractual remedies, including, but not limited to termination of contract.
3. Liquidated damages in the amount of \$2,500.

(d) Examine Contractors' benefit programs covered by this chapter;

(e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

2.93.050 Date of Application.

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and

void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

Exhibit "D"

COUNTY OF SAN MATEO
Equal Benefits Compliance Declaration Form
(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: HARRIS ASSOCIATES
Contact Person: MARIE SHOCKLEY
Address: 120 MASON CR.
CONCORD CA 94520
Phone Number: (925) 827-4900 Fax Number: (925) 671-8935

II Employees

Does the Contractor have any employees? Yes No
Does the Contractor provide benefits to spouses of employees? Yes No

If the answer to one or both of the above is no, please skip to Section IV.

III Equal Benefits Compliance (Check One)

- Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- No, the Contractor does not comply.
- The Contractor is under a collective bargaining agreement which began on _____ (date) and expires on _____ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 5th day of July, 2001 at Concord, CA
(City) (State)
Marie Shockley Signature MARIE SHOCKLEY Name (Please Print)
H.R. Magg Title 94-2385238 Contractor Tax Identification Number

**AMENDMENT TO THE AGREEMENT
FOR OMNIBUS ENGINEERING SERVICES
IN SAN MATEO COUNTY**

This Amendment to Agreement, entered into this __ day of ____ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, California, 94063-1665, hereinafter called "COUNTY" and Winzler & Kelly, hereinafter called "CONSULTANT".

W I T N E S S E T H:

WHEREAS, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of COUNTY; and

WHEREAS, on August 8, 2000, the parties hereto entered into an Agreement for Engineering Services; and

WHEREAS, it is necessary to extend the time and amend portions of the previously executed Agreement; and

NOW, THEREFORE, the COUNTY and the CONSULTANT agree to amend the agreement as follows:

SECTION 13. Term of Agreement

The term of Agreement, with amendments as stated herein, shall be extended for one (1) year, Aug. 8, 2002, from the stipulated termination date of the initial Agreement, which was executed on Aug. 8, 2000. Said Agreement, with stipulated amendments as herein described, may be extended for an additional one (1) year period beyond the first extension by written notification of the Director of Public Works. The maximum term limit of the Agreement, including subsequent extensions, as authorized by the Director of Public Works, shall not exceed three (3) years from the date of execution of the original Agreement.

SECTION 19. Employee Benefits

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. **Exhibit C and D Attached .**

SECTION 20. Non-Discrimination

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

SECTION 21. NOTIFICATIONS

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

COUNTY

Neil R. Cullen, Director of Public Works
(or his designated representative)
COUNTY of San Mateo, DPW
555 County Center, 5th Floor
Redwood City, CA 94063-1665

CONSULTANT

*W&K Consulting Engineers
200 Pine St, Ste 600
San Francisco, CA 94104
Mike Kincaid P.E.*

In all other respects, the Agreement shall remain unchanged.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands on the day and year first above written.

"COUNTY"

SAN MATEO COUNTY

BY

Michael D. Nevin, President
Board of Supervisors, County of San Mateo

ATTEST:

Clerk of said Board

"CONSULTANT"

*W&K Consulting Engineers.
dba Wm & Kelly Consulting Eng'g*

BY:

Mike Kincaid

Exhibit "C"**Equal Benefits Ordinance****CHAPTER 2.93**ORDINANCE NO 04026

An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code to Provide for Non-Discrimination by County Contractors in the Provision of Employee Benefits

WHEREAS, employee benefits routinely comprise a significant proportion of total employee compensation; and

WHEREAS, discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work; and

WHEREAS, County of San Mateo law prohibits discrimination based on marital status and/or sexual orientation; and

WHEREAS, it is the County's intent, through the contracting practices outlined herein, to equalize the total compensation between similarly situated employees with spouses and employees with domestic partners;

NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO AS FOLLOWS:

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new Chapter 2. 93 to read as follows:

Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**2.93.010 Definitions.**

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for

public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.

- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

2.93.020 Discrimination in the provision of benefits prohibited.

(a) No Contractor on a County Contract shall discriminate in the provision of Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing

a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.

2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;
2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

2.93.030 Application of Chapter.

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

2.93.040 Powers and duties of the County Manager.

The County Manager's office shall have the authority to:

(a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.

(b) Receive notification from employees of Contractors regarding violations of this Chapter.

(c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:

1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
2. Contractual remedies, including, but not limited to termination of contract.
3. Liquidated damages in the amount of \$2,500.

(d) Examine Contractors' benefit programs covered by this chapter;

(e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

2.93.050 Date of Application.

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and

void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

Exhibit "D"

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form

(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: Winzler & Kelly, Consulting Engineers
Contact Person: Michael D. Kincaid
Address: 200 Pine Street, Suite 600
San Francisco, CA 94104
Phone Number: 415-283-4970 Fax Number: 415-283-4980

II Employees

Does the Contractor have any employees? X Yes ___ No
Does the Contractor provide benefits to spouses of employees? X Yes ___ No

If the answer to one or both of the above is no, please skip to Section IV.

III Equal Benefits Compliance (Check One)

- X Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
___ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
___ No, the Contractor does not comply.
___ The Contractor is under a collective bargaining agreement which began on ___ (date) and expires on ___ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 13th day of July, 20 01 at Eureka, CA
(City) (State)

[Handwritten Signature]

Thomas M. Blackburn
Name (Please Print)

Chief Financial Officer
Title

68-0274914
Contractor Tax Identification Number

**AMENDMENT TO THE AGREEMENT
FOR OMNIBUS ENGINEERING SERVICES
IN SAN MATEO COUNTY**

This Amendment to Agreement, entered into this ___ day of ___ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, California, 94063-1665, hereinafter called "COUNTY" and Brian Kangas Foulk (BKF), hereinafter called "CONSULTANT".

W I T N E S S E T H:

WHEREAS, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of COUNTY; and

WHEREAS, on August 8, 2000, the parties hereto entered into an Agreement for Engineering Services; and

WHEREAS, it is necessary to extend the time and amend portions of the previously executed Agreement; and

NOW, THEREFORE, the COUNTY and the CONSULTANT agree to amend the agreement as follows:

SECTION 13. Term of Agreement

The term of Agreement, with amendments as stated herein, shall be extended for one (1) year, Aug. 8, 2002, from the stipulated termination date of the initial Agreement, which was executed on **Aug. 8, 2000**. Said Agreement, with stipulated amendments as herein described, may be extended for an additional one (1) year period beyond the first extension by written notification of the Director of Public Works. The maximum term limit of the Agreement, including subsequent extensions, as authorized by the Director of Public Works, shall not exceed three (3) years from the date of execution of the original Agreement.

SECTION 19. Employee Benefits

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. **Exhibit C and D Attached .**

SECTION 20. Non-Discrimination

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

SECTION 21. NOTIFICATIONS

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

COUNTY

Neil R. Cullen, Director of Public Works
(or his designated representative)
COUNTY of San Mateo, DPW
555 County Center, 5th Floor
Redwood City, CA 94063-1665

CONSULTANT

BILF ENGINEERS
540 TULCE AVE.
LOS ANGELES CA 90024.
ATTEN: DAVID EVANS

In all other respects, the Agreement shall remain unchanged.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands on the day and year first above written.

"COUNTY"

SAN MATEO COUNTY

BY _____

Michael D. Nevin, President
Board of Supervisors, County of San Mateo

ATTEST:

Clerk of said Board

"CONSULTANT"

BILF ENGINEERS
BY: David Evans
DAVID P EVANS, VICE PRESIDENT

Exhibit "C"

Equal Benefits Ordinance

CHAPTER 2.93

ORDINANCE NO 04026

An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code to Provide for Non-Discrimination by County Contractors in the Provision of Employee Benefits

WHEREAS, employee benefits routinely comprise a significant proportion of total employee compensation; and

WHEREAS, discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work; and

WHEREAS, County of San Mateo law prohibits discrimination based on marital status and/or sexual orientation; and

WHEREAS, it is the County's intent, through the contracting practices outlined herein, to equalize the total compensation between similarly situated employees with spouses and employees with domestic partners;

NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO

AS FOLLOWS:

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new Chapter 2. 93 to read as follows:

Chapter 2. 93 County Contracts - Non-Discrimination in Benefits

2.93.010 Definitions.

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for

public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.

- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

2.93.020 Discrimination in the provision of benefits prohibited.

(a) No Contractor on a County Contract shall discriminate in the provision of Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing

a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.

2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;
2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

- (c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.
- (d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.
- (e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

2.93.030 Application of Chapter.

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

2.93.040 Powers and duties of the County Manager.

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.

(c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:

1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
2. Contractual remedies, including, but not limited to termination of contract.
3. Liquidated damages in the amount of \$2,500.

(d) Examine Contractors' benefit programs covered by this chapter;

(e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

2.93.050 Date of Application.

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and

void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

Exhibit "D"

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form

(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: BKF ENGINEERS

Contact Person: DAVID P EVANS

Address: 540 PRICE AVE.
REDWOOD CITY, CA 94063

Phone Number: 650-482-6300 Fax Number: 650-482-6395

II Employees

Does the Contractor have any employees? X Yes _____ No

Does the Contractor provide benefits to spouses of employees? X Yes _____ No

If the answer to one or both of the above is no, please skip to Section IV.

III Equal Benefits Compliance (Check One)

- Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- No, the Contractor does not comply.
- The Contractor is under a collective bargaining agreement which began on _____ (date) and expires on _____ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 10 day of JULY, 2001 at REDWOOD CITY, CA

[Signature]
Signature

DAVID P EVANS
(City) (State)
Name (Please Print)

VICE PRESIDENT.
Title

941729773
Contractor Tax Identification Number

**AMENDMENT TO THE AGREEMENT
FOR OMNIBUS ENGINEERING SERVICES
IN SAN MATEO COUNTY**

This Amendment to Agreement, entered into this ___ day of ___ 2001, by and between the SAN MATEO COUNTY, a political subdivision of the State of California, with offices at 555 County Center, 5th Floor, Redwood City, California, 94063-1665, hereinafter called "COUNTY" and **Mark Thomas and Co. Inc.**, hereinafter called "CONSULTANT".

W I T N E S S E T H:

WHEREAS, the Board of Supervisors of the County of San Mateo is authorized to engage the services of a professional technical expert on a temporary basis for a specific project for performance of necessary services for and on behalf of COUNTY; and

WHEREAS, on **August 8, 2000**, the parties hereto entered into an Agreement for Engineering Services; and

WHEREAS, it is necessary to extend the time and amend portions of the previously executed Agreement; and

NOW, THEREFORE, the COUNTY and the CONSULTANT agree to amend the agreement as follows:

SECTION 13. Term of Agreement

The term of Agreement, with amendments as stated herein, shall be extended for one (1) year, Aug. 8, 2002, from the stipulated termination date of the initial Agreement, which was executed on **Aug. 8, 2000**. Said Agreement, with stipulated amendments as herein described, may be extended for an additional one (1) year period beyond the first extension by written notification of the Director of Public Works. The maximum term limit of the Agreement, including subsequent extensions, as authorized by the Director of Public Works, shall not exceed three (3) years from the date of execution of the original Agreement.

SECTION 19. Employee Benefits

For the purpose of Section 19 and section 20, contractor shall mean consultant.

All Contractors with contracts over \$5,000 with the County must comply with the County Ordinance Code, Chapter 2.93 with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the ordinance and compliance form are attached to the Proposal Section of these Specifications.

In the event that it is determined, by the County, that any portion of the County

Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code. **Exhibit C and D Attached .**

SECTION 20. Non-Discrimination

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) examine Contractor's employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event that it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

SECTION 21. NOTIFICATIONS

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested postage prepaid, unless other forms of mailing are approved, in advance, by the County and addressed as follows:

COUNTY

Neil R. Cullen, Director of Public Works
(or his designated representative)
COUNTY of San Mateo, DPW
555 County Center, 5th Floor
Redwood City, CA 94063-1665

CONSULTANT

In all other respects, the Agreement shall remain unchanged.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands on the day and year first above written.

"COUNTY"

SAN MATEO COUNTY


BY

Michael D. Nevin, President
Board of Supervisors, County of San Mateo

ATTEST:

Clerk of said Board

"CONSULTANT"



Mark Thomas & Co. INCo

BY: Richard Tanaka,
President

Exhibit "C"**Equal Benefits Ordinance****CHAPTER 2.93**ORDINANCE NO 04026

An Ordinance Adding Chapter 2.93 to the San Mateo Ordinance Code to Provide for Non-Discrimination by County Contractors in the Provision of Employee Benefits

WHEREAS, employee benefits routinely comprise a significant proportion of total employee compensation; and

WHEREAS, discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work; and

WHEREAS, County of San Mateo law prohibits discrimination based on marital status and/or sexual orientation; and

WHEREAS, it is the County's intent, through the contracting practices outlined herein, to equalize the total compensation between similarly situated employees with spouses and employees with domestic partners;

NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO AS FOLLOWS:

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new Chapter 2. 93 to read as follows:

Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**2.93.010 Definitions.**

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for

public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.

- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.
- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

2.93.020 Discrimination in the provision of benefits prohibited.

(a) No Contractor on a County Contract shall discriminate in the provision of Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing

a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.

2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;
2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

2.93.030 Application of Chapter.

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

2.93.040 Powers and duties of the County Manager.

The County Manager's office shall have the authority to:

(a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.

(b) Receive notification from employees of Contractors regarding violations of this Chapter.

- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
 2. Contractual remedies, including, but not limited to termination of contract.
 3. Liquidated damages in the amount of \$2,500.
- (d) Examine Contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;
- (f) Allow for remedial action after a finding of non-compliance, as specified by rule;
- (g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

2.93.050 Date of Application.

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and

void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

Exhibit "D"

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form

(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: Mark Thomas & Co. INC.
 Contact Person: Richard Tanaka
 Address: 90 Archer Street
San Jose, CA 95112
 Phone Number: (408) 453-5313 Fax Number: (408) 453-5390

II Employees

Does the Contractor have any employees? Yes No
 Does the Contractor provide benefits to spouses of employees? Yes No

If the answer to one or both of the above is no, please skip to Section IV.

III Equal Benefits Compliance (Check One)

- Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- No, the Contractor does not comply.
- The Contractor is under a collective bargaining agreement which began on 1985 (date) and expires on 2/28/02 (date). LOCAL #3
Field Surveyors only.

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 5th day of July, 2001 at San Jose, Calif.
(City) (State)

[Signature]
Signature

Richard Tanaka
Name (Please Print)

President
Title

94-1451490
Contractor Tax Identification Number