

AGREEMENT WITH ARCHITECT for RECEIVING HOME

This Agreement, made and entered into this 19th day of May, 2006, by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California, hereinafter called "County", and KMD Architects and Planners, P.C. hereinafter called "Consultant."

WITNESSETH

WHEREAS, pursuant to Government Code Section 31000, the County of San Mateo may retain independent contractors to perform services for the County and any department thereof; and

WHEREAS, County intends to construct,

Receiving Home
San Mateo County Youth Services Center
31 Tower Road
San Mateo, CA 94402
Project No. OGO35

hereinafter called the "Project" which is more fully described herein and which is part of the San Mateo Youth Services Center Project.

WHEREAS, the Board of Supervisors of County, after inquiry, believes that Consultant is fully qualified to provide the professional services required by County; and

WHEREAS, Consultant is qualified by experience, properly licensed and willing to provide such professional services to the County in accordance with the provision of this Agreement:

NOW THEREFORE, IT IS MUTUALLY AGREED by the parties hereto as follows:

ARTICLE 1. THE PROJECT

1.01 The Project. The Project is the new County facility known as the Receiving Home as planned and conceived by County. The County's design objectives, constraints, and criteria for the Project are documented in the Program which are schematic design documents listed in Exhibit "A" attached hereto.

1.02 Project Specifics. The Project includes, but is not limited to, the following: The Receiving Home is an approximately 13,650 Gross Square Foot, single-story residential facility.

The building pad and utilities have been prepared by others and are ready for building construction. Construction documents shall be prepared for the County of San Mateo by the consultant for public bidding and for construction.

1.03 Location. The Project is located in the unincorporated area of San Mateo County at 31 Tower Road, San Mateo, CA 94402.

1.04 Existing Conditions. The site has been graded and is ready for the building construction.

1.05 Drawings. County will provide Consultant with copies of the documents listed in the exhibits: Site Survey, Geotechnical Investigation Report, Geologic and Seismic Hazards Assessment Report, and Receiving Home Drawings, Bldg 14 (for reference only). Other existing drawings accessible to the County will be available to the Consultant.

1.06 Sustainable Design. The Project will comply with the County's Sustainable Building Policy. The design shall incorporate recycled and recyclable materials, high-efficiency - low energy-consuming mechanical systems, passive energy reduction techniques such as use of natural ventilation, abundant interior daylight and solar energy production systems wherever practicable. The LEED (Leadership in Energy and Environmental Design) rating system shall be used as a guide in the design of the facility. The Project shall be designed to qualify for LEED certification as a minimum and a higher rating if feasible. Contractor shall be required to submit the LEED certification application and be responsible for obtaining the certification.

ARTICLE 2. CONSULTANT'S SERVICES

2.01 General. As further described herein, based upon the Program and other information provided or known to Consultant, Consultant shall meet with County and regulatory agencies, ascertain the requirements of a fully operational Project, provide a complete description of the Project which incorporates the Program and other requirements, develop a design, obtain County approval of the design, prepare construction documents, assist the County in obtaining bids, and provide construction administration. The design of the Project shall comply with the highest standards of the design and construction profession. Design shall proceed through a series of design phases and each phase shall be based on the preceding approved phase. The design process and documentation shall be in accordance with standards of the American Institute of Architects.

2.02 Specific Inclusions. The Consultant's work includes, but is not limited to, the following:

- A. Contractor shall review the existing proposed floor plan (based on modular units) for building 14 with the user, confirm that the design meets their program needs and development a floor plan for conventional construction.
- B. Once the final preliminary floor plan has been approved by the using agency, Contractor shall provide construction documents for public bidding. Contractor shall provide supporting work for full service consultation services, as listed in Article 2.

2.03 Project Commencement. Consultant shall initiate all activities necessary to commence the work required by this Agreement and progress expeditiously to completion. This obligation includes conferences with County staff and regulatory agencies. Consultant shall not commence subsequent phases of this Agreement without prior written approvals from County as specified herein.

2.04 Approvals. Consultant shall submit documents for review and approval to the County and agencies as applicable to the Project. County shall be allowed 14 calendar days for each review and approval. Agencies may include State agencies, State Fire Marshal, local Fire Department, the Building Official, OSHPD and other agencies. Consultant shall obtain preliminary approval of the Project from regulatory agencies prior to schematic phase and final required approvals based on construction documents per all applicable codes, laws, and regulations. Approvals shall be in writing. Consultant shall submit plans for permit review to the Phillips Group and expeditiously resolve issues, if any, so that permits may be issued without causing delay to the construction of the Project. County shall pay for printing of drawings and specifications for submittal to reviewing agencies. Consultant shall arrange for printing and delivery of such documents.

2.05 Not used.

2.06 Schematic Phase. Based upon the preliminary schematic documents provided to the Consultant by County, Consultant shall fully develop the scope of construction and provide schematic design. The Schematic Phase shall include but is not limited to the following services and documents:

- A. A description and explanation of changes in the schematic documents from the approved preliminary schematic documents.
- B. Schematic design documents.
- C. Not used.
- D. General description of proposed structural, mechanical, electrical, and energy conservation systems.

- E. A schematic level estimate of Project costs. This estimate shall include construction and all other expenses of the Project.
- F. A schedule to complete the Project.

2.07 Design Development Phase. Based upon the approved Program Development and Schematic Phase, Consultant shall prepare for the approval of the County and appropriate agencies, Design Development Documents including but not limited to the following:

- A. Consultant shall provide a description and explanation of changes incorporated into the Design Development Documents that differ from the Schematic Phase Documents as approved by County.
- B. Design development documents.
- C. Diagrammatic drawings and description of structural, mechanical, electrical, security, fire alarm, telephone, data, and energy conservation systems.
- D. Estimate of construction costs.
- E. Not used.
- F. Outline specifications which describe the design and materials of the Project.

2.08 Construction Documents Phase. Based upon the approved Design Development Phase, Consultant shall prepare Construction Documents consisting of construction drawings and specifications. Construction Documents are subject to review and approval by the County and appropriate agencies. Construction Documents shall be suitable for competitive bidding and subsequent construction of the Project. The Construction Document Phase shall include but is not limited to the following:

- A. Consultant shall prepare Construction Documents consisting of drawings and specifications setting forth in complete detail the requirements for construction of the Project. The Construction Documents shall provide sufficient information so that the construction of the Project may be completed without the need for additional information.
- B. Consultant shall provide a detailed cost estimate of the Project based on the Construction Documents.

- C. Consultant shall meet with and obtain approval from the Phillips Group, Fire Department and other public agencies with jurisdiction over Project. Consultant shall resolve issues.
- D. Construction Documents shall be high quality. Consultant shall obtain County approval of the construction document size and material.
- E. Consultant shall provide a written summary of any changes incorporated into the Construction Documents that differ from the Design Development Phase.

2.09 Bidding Phase. Bidding will be administered by the County, including distribution of Bid Documents to prospective bidders and contractor associations. County shall pay for printing of Bid Documents for bidding purposes. Consultant shall arrange for printing and delivery of such documents as required. Based upon the approved Construction Document Phase, Consultant shall provide the following:

- A. Consultant shall prepare Bid Documents consisting of construction drawings and project manual. The Bid Documents shall include everything necessary for public bidding. Consultant shall incorporate documents provided by County and Consultant into the Project Manual.
- B. County shall provide the following documents for inclusion into the Project Manual: Notice to Contractors, Instructions to Bidders, General Conditions, Supplementary General Conditions, Special Provisions, Proposal Form, Bid Bond, Affirmative Action Program Questionnaire, Certificate of Compliance with Laws Prohibiting Discrimination, Affirmative Action Program Report, Anti-Trust Laws Questionnaire, Form of Agreement, Form of Contractors Bond, Form of Performance Bond, and Form of Guarantee.
- C. Consultant shall provide specifications, general requirements, and project directory for inclusion into the Project Manual.
- D. Participate in a prebid conference.
- E. Answer questions from bidders throughout the bid period.
- F. Provide clarifications and issue addenda as prudent to clarify the Bid Documents.
- G. Assist in reviewing bids and advising the County regarding acceptance or rejection of bids.

2.10 Construction Contract Administration Phase. Consultant shall provide administration of the construction contract in accordance with the General Conditions of the construction contract and the following:

- A. Participate in a preconstruction conference.
- B. Observe the work of Contractor. Compare Contractor's work to the Construction Documents. Advise the County of discrepancies between Contractor's work and the Construction Documents and order Contractor to correct deficiencies. However, the Architect shall not be responsible for supervision of the Work or the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.
- C. Conduct job meetings with the Contractor, County representatives, and others at least once a week. Consultant shall record items of discussion and distribute meeting notes.
- D. Review and comment on submittals and shop drawings.
- E. Provide interpretations of construction documents and issue Supplemental Instructions to notify Contractor of such interpretations.
- F. Prepare contractor revision orders as required to implement changes to the construction documents. Evaluate Contractor's requests for revision orders.
- G. Review and verify requests for payment from the Contractor. Advise County of defective work which does not conform to construction documents.
- H. When requested by Contractor, in accordance with the General Conditions of the Construction Contract, Consultant shall review the Contractor's work and determine if the work is substantially complete and if deficiencies exist. Consultant shall notify Contractor.
- I. Review Contractor guarantees, operating instructions, equipment lists and manuals for compliance with construction contract documents.
- J. Consultant shall communicate directly with Contractor. Consultant shall receive all Contractor correspondence and administer accordingly.

- K. Review and evaluate the Contractor's construction schedule and actual progress.
- L. Consultant shall provide all drawings and other documents required for occupancy by governing agencies such as, but not limited to, an exit plan from each room, fire alarm plan, and signed record drawings. The fire alarm design submittal plan, if required, is to be provided by the General Contractor's subcontractor for the fire suppression systems.

2.11 Record As-built Drawings. Within thirty days after receiving Record Drawings from the contractor, Consultant shall review the documents and report any discrepancies or omissions to County. Consultant shall incorporate field conditions in construction documents. As-built drawings showing work as finally constructed in a both hard copy and electronic files in a format agree to by County shall be delivered to the County within thirty days. The Consultant makes no guarantee of the accuracy or completeness of the Record As-Built Drawings received from the Contractor.

2.12 Services During Guarantee Period. Whenever necessary and upon written request of the County, Consultant shall assist County to correct such defects in workmanship or materials as may be discovered after acceptance of the work and prior to expiration of the guarantee period.

ARTICLE 3. SCHEDULE

3.01 Schedule. Consultant agrees to deliver to County complete Bid Documents, as more fully described herein, no later than October 2, 2006, or twenty (20) weeks after the execution of this Agreement (whichever date is later). A schedule for the completion of this Agreement including estimates for bidding and construction shall be prepared by the Consultant and delivered to the County for approval not later than fourteen calendar days after execution of this Agreement. This schedule shall encompass all Consultant's services required by this Agreement and allow for the work of others and periods for review by County and reviewing agencies. The construction period may be modified after schematic design. Consultant shall complete performance of this Agreement in accordance with the approved schedule.

ARTICLE 4. GENERAL

4.01 General. County hereby contracts with Consultant to perform all services and duties specified herein and any additional services and duties included in Consultant's proposal included herewith as Exhibit "B". This Agreement shall govern over any conflict between this Agreement and Consultant's proposal. Consultant's proposal includes all assumptions relied upon by Consultant with regards to this Agreement.

Consultant shall consult with and keep the County informed in all matters pertaining to this Agreement, the progress of Consultant's work, and potential problems with fulfilling all obligations of this Agreement.

4.02 Independent Contractor. It is understood and agreed by the parties hereto that Consultant is an independent contractor and is not an agent or employee of the County.

4.03 Associate Consultants. Consultant shall engage and pay for all consultants to Consultant, herein called subconsultants, necessary to perform the services described herein. Consultant shall be responsible for selection and supervision of subconsultants and shall also be liable to the County for any loss suffered by the County as a result of the negligence of said subconsultants. Subconsultants shall be disclosed to the County at commencement of services. No other subconsultants may be engaged for the Project without the consent of County.

4.04 Assignment. Consultant shall not assign any of his rights or duties under this Agreement without prior written consent of County.

4.05 Interest of Consultant. Consultant covenants that he presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required by this Agreement. Consultant further covenants that in the performance of this Agreement no persons having such interest shall be employed or retained as subconsultant.

4.06 Non-discrimination. Consultant, with regard to this Agreement, shall not discriminate on the grounds of age, ancestry, creed, color, disability, marital status, medical condition, national origin, political or religious affiliation, race, sex, sexual orientation or any other non-job-related criteria. This shall apply to Consultant's organization and in the selection and retention of subcontractors and vendors. In regard to contracts over \$5,000 with respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse

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.

Consultant 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 Consultant 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. Consultant shall provide County with a copy of its response to the Complaint when filed.

4.07 Errors and Omissions. The Consultant shall correct errors and omissions in his documents and such corrections shall be performed without cost to the County.

4.08 Commencement of Work. Consultant shall commence performance of the services and duties required to be performed under this Agreement immediately upon receiving a signed copy of the Agreement subject to Article 12.

4.09 Review of Work. It is understood that periodic review of the Consultant's work will be necessary and the right to review is reserved to the County. Consultant agrees to provide County, or any of its duly authorized representatives, access to any and all books, documents, papers, and records which are directly pertinent to this Agreement.

4.10 Compliance with Laws and Codes. This Agreement shall be governed by the laws of the State of California. Consultant shall comply with applicable federal, state and local codes, statutes, regulations and ordinances in effect at the time the Consultant's work is performed. This obligation applies to both the Consultant's performance and to the documents produced by Consultant pursuant to this Agreement. Consultant shall advise the County of changes to codes and laws which effect or may effect the Project. Consultant shall provide engineering calculations and other information necessary for compliance.

4.11 Site Investigation. Prior to entering into this Agreement, Consultant warrants that he has fully investigated the site and has determined the extent of the work required by this Agreement.

4.12 Claims. Consultant shall notify County of any claims for additional money within fourteen calendar days of the beginning of the event which is the basis of the claim. No payment shall be made for any claim for which notification is not received.

4.13 Surveys and Tests. If required by Consultant, County shall furnish Consultant with a site survey and soil report. Consultant shall provide requirements and coordinate obtaining the information.

4.14 Consultants of County. County will employ other consultants during the course of the Project such as land surveyors, geotechnical engineers, building inspectors, hazardous materials consultants and plan checkers. Consultant is required to coordinate with such consultants as part of Consultant's services and shall not be entitled to additional fees.

4.15 Work Product.

- A. Drawings, specifications, computer files, correspondence, calculations, other documents, and models prepared in the performance of this Agreement shall be the property of the County and shall be delivered to County upon request by County within three years of the date Consultant receives the last payment on this Agreement. All documents are instruments of service only and not intended for any other use.
- B. Drawings, specifications and other documents, including those in electronic form, prepared by the Consultant and the Consultant's Sub consultants are Instruments of Service for use solely with respect to this Project. Upon execution of this Agreement, the Consultant grants to the County a nonexclusive license to reproduce the Consultant's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the County shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Consultant shall obtain similar nonexclusive licenses from the Consultant's Sub consultants consistent with this Agreement.
- C. Any drawings or specification or instruments of services paid for, whether delivered or not to the County shall become the property of the County and shall be usable by the County. In addition, under no conditions shall the County be obligated to return any documents.
- D. County warrants that it has a license to use and/or copy any documents it supplies to Consultant for re-use on this Project that were prepared by others.

4.16 Consultant's Records. Consultant's records and work products prepared in the performance of this Agreement such as financial records, progress drawings, the final contract drawings, specifications, reports, contracts with consultants, computer files, calculations, models, work papers, and other documents shall be retained by the Consultant for a period of three years after final payment. Such records shall be available to County upon request at no additional charge.

4.17 Compliance with Contractor Employee Jury Service Ordinance. For contracts over \$100,000, Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees regular pay the fees received for jury service.

ARTICLE 5. CHANGES TO THIS AGREEMENT

5.01 Changes to the Project Scope. No changes in the scope of Project as described in this Agreement shall be made without written approval of the County. Such approval shall be obtained prior to commencing with the changes.

5.02 Changes to this Agreement. County may require changes in the scope of services to be performed by Consultant under this Agreement and Consultant agrees to perform said changes. Such changes, including any increase or decrease in the amount of Consultant's fee, shall be made by written amendments to the Agreement. Such Amendment shall be issued prior to commencing with the changes. No payment shall be made for work performed without such written approval.

5.03 Payment for Changes. Changes to this Agreement will be paid for at a lump sum amount agreed to by the parties or at an amount based on the actual labor hours and expenses incurred in the performance of the change up to a maximum amount specified in the Amendment. Consultant's hourly rates for changes to this Agreement are specified in Exhibit "C".

ARTICLE 6. COST OF CONSTRUCTION

6.01 Construction Cost Limit. The construction cost limit for the Project is **\$2,400,000** (Two million, four hundred thousand dollars). The construction cost limit may be revised by written agreement between the County and Consultant.

- A. The Construction Cost shall include the cost at current market rates of labor and materials and equipment designed, specified, and selected or specially provided for by the Consultant, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work. Construction Cost does not include the compensation of the Consultant and the Consultant's Subconsultants, the

costs of the land, rights-of-way, testing of materials, plan checking, inspection, and financing or other costs that are the responsibility of the Owner.

B. **Responsibility for Construction Cost:** In an effort to maintain our project budget and be fiscally responsible, the County shall (this process shall not preclude the consultant from preparing estimates):

- 1) Hire an independent estimator to prepare an estimate at the completion of 100% Design Development drawings. If the estimate is in excess of the "construction cost limit" the Consultant shall then make adjustments to his drawings and specification to comply with the construction cost limit and the independent estimator's estimate. The County will not approve additional fee for the Consultant to reconcile his estimate with the independent estimator.
- 2) Hire an independent estimator to prepare a second pre bid estimate at the completion of 90% Construction Documents. Again if the estimate is in excess of the "construction cost limit" the Consultant shall then make adjustments to his drawings and specification to comply with the construction cost limit and the independent estimator's estimate. The County will not approve additional fee for the Consultant to reconcile his estimate with the independent estimator. A final prebid construction cost limit shall then be established and agreed upon by the Consultant, independent estimator and the County, prior to the bidding.

6.02 Bid Results. Should the lowest bid, being one of three or more bona fide bids received, exceed the construction cost limit as revised, then at the option of the County, Consultant, without additional charge, shall modify the Construction Documents as necessary to lower the final prebid construction cost limit amount and provide revised Bid Documents. Consultant shall not be required to comply with the construction cost limit if bids are received later than six months after the Bid Documents are delivered to the County.

ARTICLE 7. PROJECT REPRESENTATIVES

7.01 Supervision by Principal. The Consultant's representative having direct supervision and management responsibility for the Project shall be a Principal of the Consultant. Consultant agrees that the Principal of Consultant designated herein shall directly supervise all work required by this Agreement and shall attend all consultations with the County. The Principal shall not be changed without the express written approval of County.

7.02 Consultant Principals. Consultant hereby designates the following individual as Consultant's Project Principal and authorized in all matters related to or required by

this Agreement. All correspondence relating to this agreement shall be addressed as follows:

Thomas Gross, Director or
Vernon Almon, Director
KMD Architects and Planners, PC
421 SW 6th Ave., Suite 1300
Portland, Oregon 97204

7.03 County Representatives. County shall provide a Project Manager to act as liaison between County and Consultant. All correspondence between the Consultant and County shall go through the Project Manager. County hereby designates the following person as County Representative in all matters related to this Agreement. All correspondence relating to this agreement shall be addressed as follows:

Jerry Okada, Project Manager
County of San Mateo
Department of Public Works
555 County Center, 5th Floor
Redwood City, CA 94063
Phone (650) 599-1486
Fax (650) 361-8220

ARTICLE 8. CONSULTANT'S FEE

8.01 Basic Fee. County agrees to pay Consultant a base fee consisting of a **fixed fee in the amount of \$ 269,300 (a fee based on actual labor hours expended and expenses incurred in accordance with the fee schedule attached as Attachment "C" up to a guaranteed maximum amount of \$ 269,300 (Two hundred sixty-nine thousand three hundred dollars)**, for and in consideration of the faithful performance of services and duties required to be performed by Consultant under this Agreement and reimbursable expenses not to exceed an allowance of **\$ 9,000 (nine thousand)** for a total contract amount of **\$ 278,300 (Two hundred seventy-eight thousand three hundred dollars)**.

8.02 Scope of Basic Fee. Consultant agrees to accept said Basic Fee as full compensation for all services, responsibilities and duties required by this Agreement, including, but not limited to, the cost of employees, other consultants, persons retained by Consultant, traveling expenses to the Project and County facilities, long-distance and local telephone calls, fax charges, typing, duplicating, all items of general overhead, messenger service, overnight delivery fees, reports, study models, progress drawings, documents submitted to the County for approval, copies, and all other costs incurred by Consultant in connection with the performance of this Agreement. An increase in the construction cost does not justify an increase in Consultant's fee.

8.03 Reimbursable Expenses. The Consultant shall be entitled to reimbursement for traveling expenses, mileage, meals and lodging at the same rate granted to employees of the County whenever the Consultant is required to travel outside the counties of San Mateo, San Francisco, and Santa Clara in the performance of this Agreement. Such travel must first be approved in writing by the County. Consultant shall also be reimbursed for expenses incurred in behalf of the County with the County's prior written approval.

8.04 Schedule of Payments. Consultant's fee shall be paid as follows:

Schematic Design Phase	14%
Design Development Phase	16%
Construction Documents Phase	32%
Bidding Phase	4%
Construction Contract Administration Phase	32%
Record Drawings	2%

If Consultant's basic fee is based on actual hours expended up to a guaranteed maximum amount, each phase shall be within the above percentage limits of the guaranteed maximum amount until the Project is complete. Upon completion, the guaranteed maximum amount shall be the single limit of payments to the Consultant.

8.05 Method of Payments. Consultant may submit monthly invoices for work completed and accepted by County. County shall make payment of each invoice within thirty days after the receipt. The County shall have the right to withhold payment in the event the County determines that the work performed by Consultant is not progressing according to schedule, or that the quality of work is inadequate, or that the invoice does not accurately reflect the value of the services performed.

8.06 Final Payment. The final payment to consultant shall not be made until, in the opinion of County, the Consultant has fulfilled all his obligations under this Agreement.

ARTICLE 9. TERMINATION OF AGREEMENT

9.01 Termination with Cause. Either party may terminate this Agreement after giving the other party written notice of a violation of this Agreement and the violating party does not correct the violation within fifteen calendar days after receiving said notice. Said notice shall specify what work other than correcting the violation may be performed after receipt of such notice. Violations of this Agreement include failure to perform obligations required by this Agreement in a timely and proper manner and failure to adhere to the covenants, terms, conditions or stipulations of this Agreement.

In the event of such termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, reports, and specifications prepared by Consultant shall, at

the option of the County become the property of County, and Consultant shall be entitled to receive just and equitable compensation for work completed in accordance with this Agreement. Notwithstanding the above, Consultant shall not be relieved of any liability to County for damages sustained by County by reason of Consultant's breach of this Agreement and County may withhold any and all payments to Consultant until such time as the exact amount of damages due the County from Consultant has been determined.

9.02 Termination Without Cause. County may terminate this Agreement at any time without cause upon ten calendar days written notice to Consultant, and thereupon all documents, data, studies, surveys, drawings, estimates, reports and specifications prepared by Consultant shall become the property of County and subject to payment therefore be delivered to County upon demand. Said notice shall specify what work may be performed after receipt of such notice. In the event of such termination by County without cause, County shall pay Consultant for services actually performed pursuant to this Agreement prior to the date of termination.

ARTICLE 10. HOLD HARMLESS

10.01 Indemnification. The Consultant shall indemnify and hold harmless the County, its officers, agents, employees, and servants from all claims, suits or actions of every name, kind and description, including those of third parties, brought as a result of the negligent performance of work required pursuant to this contract. This indemnification and hold harmless shall include but not be limited to all claims, suits, or actions brought for or on account of (1) injuries to or death of any person, including Consultant; or (2) damage to property or any kind whatsoever and to whomsoever belonging; or (3) any other loss or cost as a result of this work; or (4) the concurrent active or passive negligence of the County, its officers, agents, or employees and servants. This indemnification and hold harmless shall not apply to injuries or damage for which the County has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

10.02 Defense. The duty of the Consultant to indemnify and hold harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code, provided, however, that nothing herein shall be construed to require the Consultant to indemnify the County, its officer, agents, employees and servants against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

ARTICLE 11. INSURANCE

11.01 General. The Consultant shall not commence work under this Agreement until all insurance required under this section has been obtained. The Consultant shall

furnish County with Certificates of Insurance evidencing the required coverage and there shall be a specific contractual liability endorsement extending the Consultant's coverage to include the contractual liability assumed by the Consultant pursuant to this Agreement. These certificates shall be endorsed to provide thirty-calendar days written notice to County of any change in the limits, cancellation or other modification of the insurance.

11.02 Workers' Compensation. The Consultant shall have in effect during the entire life of this Agreement, Worker's Compensation and Employer Liability Insurance providing full statutory coverage in accordance with Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code.

11.03 Liability Insurance. Consultant shall take out and maintain during the life of this Agreement such Bodily Injury Liability Insurance, Property Damage Liability Insurance and Professional Liability Insurance as shall protect him while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all operations under this Agreement, whether such operations are by himself or by any subcontractor or anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below:

A.	Comprehensive General Liability	\$1,000,000
B.	Motor Vehicle Liability Insurance	\$1,000,000
C.	Professional Liability	\$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, except professional liability, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

11.04 Required Insurance Coverage. In the event of any breach of this section, or any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work.

ARTICLE 12. MISCELLANEOUS PROVISIONS

12.01 Merger Clause. This Agreement, including any exhibits incorporated herein by reference, constitutes the sole Agreement between the parties and shall not be amended or modified except by agreement of both parties. Any prior agreements, promises, negotiations, or representations between the parties not expressly stated in this document are not binding.

12.02 Exhibits. The following exhibits are a part of this Agreement:

- A. Exhibit "A": Schematic Design documents [Article 1.01]
- B. Exhibit "B": Consultant's Proposal. [Article 4.01]
- C. Exhibit "C": Consultant's Hourly Rates. [Article 5.03 and Article 8.01]
- D. Exhibit "D": Equal Benefits Ordinance [Article 4.06]
- E. Exhibit "E": Equal Benefits Compliance Declaration Form [Article 4.06]
- F. Exhibit "F": Site Survey [Article 4.13]
- G. Exhibit "G": Geotechnical Investigation Report [Article 4.13]
- H. Exhibit "H": Geologic and Seismic Hazards Assessment Report [Article 1.05/ 4.13]
- I. Exhibit "I": Receiving Home Drawings, Bldg 14 (for reference only) [Article 1.05]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their respective duly authorized agents on the day and year first above written.

COUNTY OF SAN MATEO

By _____
President, Board of Supervisors

ATTEST:

Clerk, Board of Supervisors

Date: _____

CONSULTANT

By V-L Almon
Vernon L. Almon
Principal

Date 19 May 2006