

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
KENNEDY/JENKS CONSULTANTS**

THIS AGREEMENT, entered into this ____ day of _____, 20____,
by and between the COUNTY OF SAN MATEO, hereinafter called "County," and
Kennedy/Jenks Consultants, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of airport engineering, planning and environmental consultant services.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

- Exhibit A—Services
- Exhibit B—Payments and rates
- Exhibit C— Federal Aviation Administration Provisions
- Attachment I—§504 Compliance Form
- Attachment II—Contractor Declaration Form
- Attachment III—DE542 Form

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A" and Exhibit "C".

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed Two Million Dollars, (\$2,000,000).

4. Term and Termination

The term of this Agreement shall be for three (3) years from the date of execution of the Agreement by the County. The County, at its sole discretion, may elect to extend term of the Agreement in one (1) year increments for a maximum total term of five (5) years. Said approval to extend the Agreement beyond the initial three year term of the Agreement shall be accomplished by written notification from the Director of Public Works or his designated representative, which notification shall serve as an amendment of this section of the agreement.

This Agreement may be terminated by Contractor, the Director of Public Works or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

In the event Contractor has not completed work under an existing Task Order as described in Exhibit A "Services" at the end of the agreement, County may elect to continue payment to Contractor under the terms of this Agreement for a period of no more than one hundred eighty (180) days after the expiration of this Agreement in order to complete the work specified in the Task Order.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the County learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

To the full extent permitted by law, CONTRACTOR shall indemnify and save harmless the COUNTY, its officers, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including CONTRACTOR, its officers, employees and servants, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties or claims of damages resulting from CONTRACTOR'S failure to comply with applicable laws, or (D) any other loss or cost resulting from the CONTRACTOR'S negligent or reckless acts or omissions or willful misconduct in connection with the performance of any work required of CONTRACTOR or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which the COUNTY has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of CONTRACTOR to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

The obligations set forth in this section shall continue beyond the term of this Agreement as to any act or omission which occurred during or under this Agreement.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. The Contractor shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the County of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of 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, and I will comply with such provisions before commencing the performance of the work of this Agreement.

- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her 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 claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by 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.

Such insurance shall include:

- | | |
|---|-------------|
| (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, 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.

In the event of the breach of any provision of this section, or in the event 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 pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. Further, Contractor certifies that the Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San

Mateo County Ordinance Code, which regulates the use of disposable food service ware.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* 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 section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to 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 their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* 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.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

12. Compliance with Contractor Employee Jury Service Ordinance

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.

13. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

14. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

15. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or the United States District Court for the Northern District of California.

16. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when both (1) transmitted via facsimile to the telephone number listed below and (2) either deposited in the United States mail, postage prepaid, or when deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt for transmittal, charges prepaid, addressed to:

In the case of County, to:

County of San Mateo
Airports Division
620 Airport Drive – Suite 10
San Carlos, CA 94070

In the case of Contractor, to:

Kennedy/Jenks Consultants
10850 Gold Center Drive
Suite 350
Rancho Cordova, CA 95670

In the event that the facsimile transmission is not possible, notice shall be given both by United States mail and an overnight courier as outlined above.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

Kennedy/Jenks Consultants

Contractor's Signature

Date: _____

Long Form Agreement/Non Business Associate v 8/19/08

EXHIBIT "A" **SERVICES**

SECTION 1. SCOPE OF PROJECT

At COUNTY'S request, the CONTRACTOR shall provide airport engineering and planning services to include, but not be limited to, preliminary studies, topographic surveys, geotechnical studies, project concept development, planning, environmental studies, noise analysis, design and construction management for a variety of Airport and FAA funded projects at San Carlos and Half Moon Bay Airports. The type of airport projects that the consultant may be requested to provide services for could include the following:

(a) Various current and anticipated FAA grant funded Airport Improvement Program (AIP) security, safety, construction and maintenance projects.

(b) Various current and anticipated FAA grant funded Airport planning projects and environmental studies.

(c) Various current and anticipated Airport funded planning and engineering projects including environmental studies, and design and construction management for airport pavement, building, levee and infrastructure improvements.

The above represent general categories of possible type projects. The type and scope of the projects will be specified by the COUNTY as set forth herein.

SECTION 2. GENERAL REQUIREMENTS

(a) When County identifies a project that would benefit from contractor's services, the COUNTY will issue a preliminary task order for each specific project to the CONTRACTOR. The CONTRACTOR will then propose detailed scope of services, a 'not-to-exceed' fee, and a timetable for completing the proposed project. Once an agreement is reached for a specific project, the COUNTY will issue a Final Task Order, herein after called '**Task Order**' for the CONTRACTOR to proceed.

(b) **CONTRACTOR'S** work shall begin within ten (10) days after receiving COUNTY'S Notice to Proceed.

(c) The **CONTRACTOR** will be responsible to the COUNTY in matters pertaining to the contractual obligations, approvals, and interpretations required for this project. The Director of Public Works or the respective designated representative will be the representative of the COUNTY for all purposes under this Agreement.

(d) The **CONTRACTOR** as part of the services to be performed, will keep the **COUNTY** apprised at all times of the progress of the work.

(e) The **CONTRACTOR** shall meet with **COUNTY** to develop a time schedule to be prepared and kept up to date by **CONTRACTOR** of the anticipated program to complete services described in this Exhibit and any approved final task orders.

(f) Computer software used by the **CONTRACTOR** to produce the documents required in this Agreement shall be approved by **COUNTY**. During all phases of this Agreement and at the time of final submittal of report, the **CONTRACTOR** shall furnish the **COUNTY** with all electronic media acceptable to the **COUNTY**, in addition to the number of copies specified in the Agreement.

SECTION 3. AIRPORT PLANNING SERVICES BY CONTRACTOR

The Task Order(s) will be issued by the County to the **CONTRACTOR** and will define a specific project with a scope of work to accomplish said project.

In consideration of payment by **COUNTY** to **CONTRACTOR**, as hereinafter provided, **CONTRACTOR** agrees to perform all contractor services described in the approved Task Order(s) necessary to complete the project.

SECTION 4. GENERAL OBLIGATIONS OF CONTRACTOR

4.1 CONTRACTOR PERSONNEL

The **CONTRACTOR** shall provide the **COUNTY** with resumes of key staff members to be assigned to said project including the project manager and Principal-In-Charge in advance of commencing any contractor services and any approved final task orders. Once the **COUNTY** approves the key staff to be assigned to the project, any substitutions or additions shall be subject to written approval by the **COUNTY**. The **COUNTY** reserves the right to reject any personnel the **CONTRACTOR** proposes for use on the project. Approval of the use of staff from work sites other than the work sites of the planning staff initially identified to work on said project shall be subject to written approval by the **COUNTY**.

CONTRACTOR represents that it is qualified to furnish the services described under this Agreement. **CONTRACTOR** further declares that one or more members or employees of its firm and that of its subcontractors, if so required by the State, are licensed by the State of California to perform their services and that these services will be performed by them or under their direct supervision. **CONTRACTOR** shall furnish to **COUNTY** for approval, upon execution of this Agreement, a list of all firms or corporations to be employed as subcontractors.

Nothing in this Agreement abrogates the professional responsibilities of the **CONTRACTOR** and/or subcontractors with respect to errors, omissions, or malpractice.

4.3 CORRECTIONS AND/OR REVISIONS

CONTRACTOR shall make and provide to **COUNTY** all necessary corrections and/or revisions to the project analysis when it is determined by the Director of Public Works or his designated representative, that such changes are necessary for the project and are due to oversights, omissions or errors of **CONTRACTOR**.

Payment to **CONTRACTOR** for making any such necessary corrections and/or revisions, addendum, or contract change orders which are determined by the Director of Public Works or the respective designated representative to be due to the oversights, omissions, or errors of the **CONTRACTOR** shall be considered as being included in the Basic Services fee to be paid to **CONTRACTOR** for Basic Services described in this Exhibit and any approved final task orders. It is expressly understood that no additional payment shall be considered or made for these services.

SECTION 5. GENERAL OBLIGATIONS OF COUNTY

(a) **COUNTY** shall be responsible for providing any available data required by the **CONTRACTOR** as stipulated in any approved final task orders.

(b) **COUNTY** shall examine documents submitted by **CONTRACTOR** and shall render comments and direction pertaining thereto promptly (up to two weeks or otherwise upon written agreement by **COUNTY** and **CONTRACTOR**), as stipulated in approved final Task Orders.

SECTION 6. SPECIFICATION OF AMOUNT OF PAYMENT

The PROJECT TOTAL “Not-to-Exceed” amount will be stipulated in each Task Order. Any cost for services deemed necessary by the **COUNTY** for completion of each Task Order shall be authorized in writing prior to proceeding with the work. Billing rates for services provided under this Agreement shall be as set forth on Exhibit “B” attached hereto and by reference made a part of this Agreement.

The “Not to Exceed” amount for each Task Order shall not exceed **\$500,000** unless said amount is authorized to be increased by the County Board of Supervisors. Specific projects that may be assigned to **CONTRACTOR** shall have a Project Total ‘Not To Exceed’, which shall be stipulated in the Task Order. The sum of individual Task Order fees that may be assigned to the **CONTRACTOR** during the term of this agreement shall not exceed **\$2,000,000** without prior approval by the County Board of Supervisors.

Payments for services performed are due and payable upon completion and approval of each Task Order by the Director of Public Works or the respective designated representative should the project be accomplished within a single billing period.

6.1 METHOD OF PAYMENT

Payment shall be made by **COUNTY** only for services rendered and upon submission of invoice after approval of each Task Order should the project be accomplished within a single billing period. Partial progress payment for items accomplished within each Task Order shall be made by **COUNTY** upon submission of detailed invoices in a format approved by **COUNTY** and approval of the completion of items identified in the Task Order.

6.2 PAYMENT UPON SUSPENSION, ABANDONMENT OF PROJECT, OR TERMINATION OF AGREEMENT

If any Task Order is suspended for more than thirty (30) calendar days, or abandoned in all or in part, **CONTRACTOR** shall be paid for its services performed prior to receipt of thirty (30) days written notice from **COUNTY** of such suspension or abandonment, together with reimbursable expenses then due. In the event that the **COUNTY** abandons any Final Task Order the **COUNTY** may specifically authorize additional work necessary to properly close out the project to **COUNTY'S** satisfaction.

If this Agreement or any Task Order is suspended or terminated due to fault of **CONTRACTOR**, **COUNTY** shall be obligated to compensate **CONTRACTOR** only for that portion of **CONTRACTOR'S** services that were satisfactorily performed.

6.3 PERFORMANCE OF SERVICES IF CONTRACTOR IS NOT DILIGENT IN PERFORMING WORK

If, in the sole discretion of the County Director of Public Works or the Director's designee, **CONTRACTOR** is not diligent in pursuing the designated services as specified in each Task Order, the Director of Public Works or the respective designated representative may, at his option, seven (7) days after written notice to **CONTRACTOR**, perform any such designated services or retain a different contractor to do the same, and the cost associated with having said work completed by a means other than the **CONTRACTOR** will be retained from any sums not yet paid to the **CONTRACTOR**.

SECTION 7. PROGRESS AND COMPLETION

7.1 Notice To Proceed

The Notice to Proceed for each Task Order shall be a letter, or similar instrument, signed by the Director of Public Works or the respective designated representative, and

shall be labeled "Notice to Proceed". Such "Notice to Proceed" shall contain a reference to the work authorized by said Notice.

7.2 Time of Completion of each Task

CONTRACTOR agrees to perform the contractor services for the type of projects generally described in this Exhibit and described specifically by a Task Order within the time limits set forth in the project schedule required by Section 2 (e) of this Appendix. Any change in the scope of services as outlined in the Task Order will require a revised time table.

COUNTY agrees to exercise due diligence in performing its tasks to implement the **CONTRACTOR'S** time schedule.

7.3 COUNTY'S Review and Approval

Between each phase of work and at critical progress points there shall be a review and approval period by **COUNTY** and other agencies. **COUNTY** shall reject **CONTRACTOR'S** submittal if changes and/or comments transmitted to **CONTRACTOR** by **COUNTY** during previous review were not addressed by **CONTRACTOR** in current submittal.

SECTION 8. CHANGES IN WORK

The Director of Public Works or the respective designated representative may order major changes in scope or character of work in writing which are mutually acceptable, either decreasing or increasing the amount of **CONTRACTOR'S** services. In the event that such changes are ordered, **CONTRACTOR** shall be entitled to compensation for all work previously directed by **COUNTY** and performed by **CONTRACTOR** prior to receipt of notice of change. Increased compensation for major changes shall be determined in accordance with Section 6 of this Appendix, but in no event shall **COUNTY** be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by **COUNTY**.

In the event that major changes are ordered pursuant to this Section, the schedule for progress and completion in Section 7 of this Appendix and compensation under Section 6 of this Appendix, shall be adjusted by negotiation between **CONTRACTOR** and **COUNTY**.

SECTION 9. RECORDS

The **CONTRACTOR** and all subcontractors under its employ, supervision and/or control shall retain all financial and technical records for inspection for a period of not

less than three (3) years from completion and approval of each final task order by the COUNTY or upon termination of Agreement.

SECTION 10. INTEREST OF CONTRACTOR/CONTRACTOR INDEPENDENT OF COUNTY

In accepting this Agreement, **CONTRACTOR** covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. **CONTRACTOR** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed throughout the term of this Agreement. **CONTRACTOR** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **COUNTY**.

CONTRACTOR has, and shall retain, the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his contractor services hereunder to include any and all subcontractors employed for the project described herein. **CONTRACTOR** shall be solely responsible for all matters relating to payment of his employees, including compliance with social security, withholding, and all other regulations that prescribe conditions of employment.

SECTION 11. GENERAL PROVISIONS

(a) The **CONTRACTOR** acknowledges that time is of the essence for all projects defined in approved Task Order(s) and agrees to complete all work within the time frame as stipulated within said Task Order(s) commencing with the receipt of the **COUNTY'S** "Notice to Proceed". Time extensions shall only be approved with prior written approval of the County and failure to complete services according to a mutually agreed upon schedule may be grounds for contract termination.

(b) The **CONTRACTOR**, upon becoming aware of factors which would result in delays, shall be responsible for alerting **COUNTY** to potential delays well in advance in order that possible mitigation measures may be evaluated. **CONTRACTOR** shall detail the nature and reasons for potential delays and shall provide the **COUNTY** with possible mitigation measures for consideration.

(c) On all matters pertaining to Task Orders to be performed and the time taken by **CONTRACTOR** to perform such services, the decision of the Director of Public Works or the respective designated representative will be final after discussions between **COUNTY** and **CONTRACTOR**.

(d) The **CONTRACTOR** warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the

CONTRACTOR, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the **COUNTY** shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(e) The **CONTRACTOR** shall comply with standard provisions for all lease, use, and other agreements and permits promulgated by the Federal Aviation Administration, as set forth in Exhibit "C", "Federal Aviation Administration Provisions" to this Agreement and as these provisions may be amended from time to time.

SECTION 12. OWNERSHIP OF DOCUMENTS

All tracings, sketches, plans, specifications, estimates, maps, design calculations, quantity calculations, supporting documents, studies, survey notes, and other documents prepared by **CONTRACTOR** or subcontractors under the terms of this Agreement shall be delivered to and become the property of the **COUNTY** without restriction or limitation on their use. Computer files used by **CONTRACTOR** to produce the final set of planning documents shall also be delivered in electronic form on media acceptable to the **COUNTY** at no additional cost and become the property of the **COUNTY**.

Schedule of Charges

January 1, 2009

Personnel Compensation

Classification	Hourly Rate
CAD-Technician	\$95
Designer-Senior Technician	\$125
Engineer-Scientist-Specialist 2	\$120
Engineer-Scientist-Specialist 3	\$135
Engineer-Scientist-Specialist 4	\$150
Engineer-Scientist-Specialist 5	\$165
Engineer-Scientist-Specialist 6	\$185
Engineer-Scientist-Specialist 7	\$210
Engineer-Scientist-Specialist 8	\$220
Engineer-Scientist-Specialist 9	\$225
Project Administrator	\$85
Administrative Assistant	\$70
Aide	\$55

In addition to the above Hourly Rates, a three percent Communications Surcharge will be added to Personnel Compensation for normal and incidental copies, communications and postage.

Direct Expenses

Reimbursement for direct expenses, as listed below, incurred in connection with the work, will be at cost plus ten percent for items such as:

- a. Maps, photographs, reproductions, printing, equipment rental, and special supplies related to the work.
- b. Consultants, soils engineers, surveyors, contractors, and other outside services.
- c. Rented vehicles, local public transportation and taxis, travel and subsistence.
- d. Specific telecommunications and delivery charges.
- e. Special fees, insurance, permits, and licenses applicable to the work.
- f. Outside computer processing, computation, and proprietary programs purchased for the work.

Reimbursement for vehicles used in connection with the work will be at the federally approved mileage rates or at a negotiated monthly rate.

Reimbursement for use of computerized drafting systems (CAD), geographical information systems (GIS), and other specialized software and hardware will be at the rate of \$12 per hour.

Rates for professional staff for legal proceedings or as expert witnesses will be at rates one and one-half times the Hourly Rates specified above.

Other in-house charges for prints and reproductions, equipment usage, laboratory analyses, etc. will be at standard company rates.

Excise and gross receipts taxes, if any, will be added as a direct expense.

The foregoing Schedule of Charges is incorporated into the agreement for the services provided, effective January 1, 2009 through December 31, 2009. After December 31, 2009, invoices will reflect the Schedule of Charges currently in effect.

Address 1
 Address 2
 CityStZip
 Date

EXHIBIT "C"
FEDERAL AVIATION ADMINISTRATION PROVISIONS

CIVIL RIGHTS ACT OF 1964, TITLE VI – CONSULTANT CONTRACTUAL REQUIREMENTS

During the performance of this contract, the Consultant, for itself, its assignees and successors in interest agrees as follows:

1.1 Compliance with Regulations. The Consultant shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

1.2 Nondiscrimination. The Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

1.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

1.4 Information and Reports. The Consultant shall provide all information and reports required by the Regulation or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

1.5 Sanctions for Noncompliance. In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the Consultant under the contract until the Consultant complies, and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

1.6 Incorporation of Provisions. The Consultant shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520 - GENERAL CIVIL RIGHTS PROVISIONS

The Consultant assures that it will comply with pertinent Federal statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

In the case of Consultants, this provision binds the Consultants from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

DISADVANTAGED BUSINESS ENTERPRISES

Contract Assurance (§26.13) - The Consultant and their subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Prompt Payment (§26.29) - The Consultant agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than *[specify number]* days from the receipt of each payment the Consultant receives from *[Name of recipient]*. The Consultant agrees further to return retainage payments to each subcontractor within *[specify the same number as above]* days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the *[Name of Recipient]*. This clause applies to both DBE and non-DBE subcontractors.

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

(1) No Federal appropriated funds shall be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the Consultant shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

ACCESS TO RECORDS AND REPORTS

The Consultant shall maintain an acceptable cost accounting system. The Consultant agrees to provide the Sponsor, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Consultant agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

RIGHTS TO INVENTIONS

All rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

TRADE RESTRICTION CLAUSE

The Consultant or their subcontractors, by execution of a contract, certifies that it:

- a. Is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. Has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. Has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a Consultant or subcontractor who is unable

to certify to the above. If the Consultant knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the Consultant agrees that it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The Consultant may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The Consultant shall provide immediate written notice to the sponsor if the Consultant learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the Consultant if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the Consultant or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

TERMINATION OF CONTRACT

- a. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- b. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- c. If the termination is due to failure to fulfill the Consultant's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such

case, the contractor shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.

d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the Consultant had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.

e. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

The Consultant certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by acceptance of this contract that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the Consultant or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this agreement.

BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Consultant or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

ATTACHMENT

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- a. Employs fewer than 15 persons.
- b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person - Type or Print

Name of Contractor(s) - Type or Print

Street Address or P.O. Box

City, State, Zip Code

I certify that the above information is complete and correct to the best of my knowledge.

Signature

Title of Authorized Official

Date

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

**County of San Mateo
Contractor's Declaration Form**

I. CONTRACTOR INFORMATION

Contractor Name:	Phone:
Contact Person:	Fax:
Address:	

II. EQUAL BENEFITS (check one or more boxes)

Contractors with contracts in excess of \$5,000 must treat spouses and domestic partners equally as to employee benefits.

- Contractor complies with the County's Equal Benefits Ordinance by:
 - offering equal benefits to employees with spouses and employees with domestic partners.
 - offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- Contractor does not comply with the County's Equal Benefits Ordinance.
- Contractor is exempt from this requirement because:
 - Contractor has no employees, does not provide benefits to employees' spouses, or the contract is for \$5,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to offer equal benefits when said agreement expires.

III. NON-DISCRIMINATION (check appropriate box)

- Finding(s) of discrimination have been issued against Contractor within the past year by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. Please see attached sheet of paper explaining the outcome(s) or remedy for the discrimination.
- No finding of discrimination has been issued in the past year against the Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other entity.

IV. EMPLOYEE JURY SERVICE (check one or more boxes)

Contractors with original or amended contracts in excess of \$100,000 must have and adhere to a written policy that provides its employees living in San Mateo County up to five days regular pay for actual jury service in the County.

- Contractor complies with the County's Employee Jury Service Ordinance.
- Contractor does not comply with the County's Employee Jury Service Ordinance.
- Contractor is exempt from this requirement because:
 - the contract is for \$100,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to comply when the collective bargaining agreement expires.

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.

Signature

Name

Date

Title

**REPORT OF
INDEPENDENT CONTRACTOR(S)**



05420101

See detailed instructions on page 2. Please type or print.

SERVICE-RECIPIENT (BUSINESS OR GOVERNMENT ENTITY):

DATE MMDDYY	FEDERAL ID NO.	CA EMPLOYER ACCOUNT NO.	SOCIAL SECURITY NO.	NO. OF FORMS NEEDED
MMDDYY				
SERVICE-RECIPIENT NAME / BUSINESS NAME			CONTACT PERSON	
ADDRESS			TELEPHONE NO.	
CITY			STATE	ZIP

SERVICE-PROVIDER (INDEPENDENT CONTRACTOR):

FIRST NAME	MI	LAST NAME		
SOCIAL SECURITY NO.	STREET NO.	STREET NAME		UNIT/APT
CITY	STATE		ZIP	
START DATE OF CONTRACT	AMOUNT OF CONTRACT	CONTRACT EXPIRATION DATE	CHECK HERE IF CONTRACT IS ONGOING	
MMDDYY		MMDDYY		

FIRST NAME	MI	LAST NAME		
SOCIAL SECURITY NO.	STREET NO.	STREET NAME		UNIT/APT
CITY	STATE		ZIP	
START DATE OF CONTRACT	AMOUNT OF CONTRACT	CONTRACT EXPIRATION DATE	CHECK HERE IF CONTRACT IS ONGOING	
MMDDYY		MMDDYY		

FIRST NAME	MI	LAST NAME		
SOCIAL SECURITY NO.	STREET NO.	STREET NAME		UNIT/APT
CITY	STATE		ZIP	
START DATE OF CONTRACT	AMOUNT OF CONTRACT	CONTRACT EXPIRATION DATE	CHECK HERE IF CONTRACT IS ONGOING	
MMDDYY		MMDDYY		