

# Agenda



## County of Inyo Board of Supervisors

Board of Supervisors Room  
County Administrative Center  
224 North Edwards  
Independence, California

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Anyone wishing to speak, please obtain a card from the Board Clerk and indicate each item you would like to discuss. Return the completed card to the Board Clerk before the Board considers the item (s) upon which you wish to speak. You will be allowed to speak about each item before the Board takes action on it.

Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Supervisors or County Government. No card needs to be submitted in order to speak during the "Public Comment" period.

**Public Notices:** (1) In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). (2) If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed less than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).

**Note:** Historically the Board does break for lunch; the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

### **September 17, 2019 - 8:30 AM**

#### 1. **PUBLIC COMMENT**

#### **CLOSED SESSION**

2. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code §54956.9 (*two cases*).
3. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to potential litigation pursuant to (2) of subdivision (d) of Government Code §54956.9 (*one case*).
4. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – City of Los Angeles, Department of Water and Power of the City of Los Angeles v. Inyo County Board of Supervisors, et al. Inyo County Superior Court Case No. 12908.
5. **CONFERENCE WITH COUNTY'S LABOR NEGOTIATORS** – Regarding employee organizations: Deputy Sheriff's Association (DSA); Elected Officials Assistant Association (EOAA); Inyo County Correctional Officers Association (ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers Association (ICPPOA); IHSS Workers; Law Enforcement Administrators' Association (LEAA). Unrepresented employees: all. County designated representatives – Administrative Officer Clint Quilter, Assistant County Administrator Leslie Chapman, Deputy Personnel Director Sue Dishion, County Counsel Marshall Rudolph, Health and Human Services Director Marilyn Mann, and Chief Probation Officer Jeff Thomson.

**OPEN SESSION** (With the exception of timed items, all open-session items may be considered at any time and in any order during the meeting in the Board's discretion.)

- 10 A.M.
6. **PLEDGE OF ALLEGIANCE**
  7. **REPORT ON CLOSED SESSION AS REQUIRED BY LAW.**

8. **PUBLIC COMMENT**
9. **COUNTY DEPARTMENT REPORTS** (*Reports limited to two minutes*)
10. **INTRODUCTIONS** - The following new employees will be introduced to the Board: Kelsey Ditty, Office Clerk III, Road Department; and Fabiola Isidro, Office Technician III, Treasurer-Tax Collector's Office.
11. **EMPLOYEE SERVICE RECOGNITION** - The Board will recognize Administrative Legal Secretary Debbie Gonzalez for 30 years of service to the County of Inyo.
12. **PROCLAMATION - Eastern Sierra Cancer Alliance** - Request Board: A) receive brief presentation on local breast cancer awareness outreach efforts and activities; and B) approve a proclamation declaring October 18, 2019 Community Pink Day in Inyo County.

### **DEPARTMENTAL - PERSONNEL ACTIONS**

13. **Health & Human Services - Behavioral Health** - Request Board find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for one (1) APAR Health and Human Services Specialist I exists in the Behavioral Health budget, as certified by the HHS Director and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates may meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but an open recruitment is more appropriate to ensure qualified applicants apply; and C) approve the hiring of one (1) APAR Health and Human Services Specialist I at Range 50PT (\$15.60-\$19.01/hr.).
14. **Health & Human Services - Social Services** - Request Board find that, consistent with the adopted Authorized Position Review Policy: A) the availability of Social Services and Mental Health funding (no General Funds) for one (1) Administrative Analyst I-II exists, as certified by the HHS Director and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates may meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but as a State Merit System position, an open recruitment would be more appropriate to ensure qualified applicants apply; and C) approve the hiring of either an Administrative Analyst I at Range 68 (\$4,444-\$5,400) or II at Range 70 (\$4,660-\$5,668), dependent upon qualifications.

### **CONSENT AGENDA** (Approval recommended by the County Administrator)

15. **Clerk/Recorder** - Request Board: A) declare CyberScout, LLC of Scottsdale, AZ a sole-source provider of Establishing & Executing an Election Vulnerability Management Process; B) approve the agreement between the County of Inyo and CyberScout, LLC of Scottsdale, AZ for the provision of Establishing & Executing an Election Vulnerability Management Process in an amount not to exceed \$10,000 for the period of December 5, 2019 through December 5, 2020; and C) authorize the Clerk-Recorder to sign, contingent upon all appropriate signatures being obtained.
16. **County Administrator** - Request Board approve Amendment No. 14 to the contract between the County of Inyo and Allan D. Kotin & Associates of Los Angeles, CA, extending the term of the contract through June 30, 2020, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

17. **County Administrator - Information Services** - Request Board approve and award the contract for Information Technology Improvement Services to Info-Tech Research Group of Las Vegas, NV in an amount not to exceed \$24,120.90 for the period of October 1, 2019 through September 30, 2021, billed at \$12,060.45 annually, authorize payment for the first year's invoice, and authorize the Chairperson to sign.
18. **County Administrator - Recycling & Waste Management** - Request Board award a bid in the amount of \$15,041.54 to McLaughlin Waste Equip, Inc. of Lockeford, CA for the purchase of two (2) recycling roll-off bins.
19. **Public Works** - Request Board approve the contract between the County of Inyo and Pestmaster Services of Reno, NV for the provision of Insect and Pest Control Services for the period of October 1, 2019 through June 30, 2022 in the amount not to exceed \$41,330.40, contingent upon the Board's adoption of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.
20. **Public Works** -  
Request Board: A) award the contract for the Bishop Airport Taxiway Rehabilitation Project (Project) to Qualcon Contractors Inc. of Minden, NV as the successful bidder; B) approve the construction contract between the County of Inyo and Qualcon Contractors Inc. of Minden, NV in the amount of \$4,722,055, and authorize the Chairperson to sign, contingent upon receipt of the forthcoming FAA grant for the Project and all appropriate signatures being obtained; and C) authorize the Public Works Director to execute all other project contract documents, including contract change orders, to the extent permitted by Public Contract Code Section 20142 and other applicable laws.
21. **Public Works** -  
Request Board: A) award the contract for the Runway Rehabilitation Project at the Lone Pine/Death Valley Airport to Granite Construction Inc. of Bakersfield, CA as the successful bidder; B) approve the construction contract between the County of Inyo and Granite Construction Inc. in the amount of \$1,816,900, and authorize the Chairperson to sign, contingent upon receipt of the forthcoming FAA grant for the Lone Pine/Death Valley Airport Runway Rehabilitation Project and all appropriate signatures being obtained; and C) authorize the Public Works Director to execute all other project contract documents, including contract change orders, to the extent permitted by Public Contract Code Section 20142 and other applicable laws.
22. **Public Works - Road Dept.** - Request Board approve the closure of portions of Tu-Su Lane, Diaz Lane, and North Barlow Lane on Friday, September 27, 2019 between the hours of 9:00 a.m. and 12:30 p.m.

**DEPARTMENTAL** (To be considered at the Board's convenience)

23. **Clerk/Recorder** - Request Board receive a presentation on the Changing Election Landscape.

24. **County Administrator - Information Services** - Request Board approve Amendment No. 4 to the Contract #CA2012.004 (“Master Agreement”) between the County of Inyo and Manatron, Inc. – a Thompson Reuters Business extending the term to November 30, 2019, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.
  
25. **Health & Human Services - First 5** - Request Board receive a presentation regarding the First 5 Commission's newly adopted 2019-2024 Strategic Plan.
  
26. **Public Works** - Request Board:
  - A) Amend the Fiscal Year 2019-2020 Lone Pine/Death Valley Airport Pavement Budget (Budget 150504) as follows:
    1. increase estimated revenue in State Grant (Revenue Code 4498) by \$7,835;
    2. increase estimated revenue in Federal Grant (Revenue Code 4555) by \$156,710;
    3. increase estimated revenue in Operating Transfer In (Revenue Code 4998) by \$9,576;
    4. increase appropriation in Object Code Construction in Progress (Object Code 5700) by \$199,122;
    5. decrease appropriation in Object Code Professional Services (Object Code 5265) by \$25,001;
  
  - B) Amend the Fiscal Year 2019-2020 Auditor Controller – Geothermal (Budget 010408) by increasing appropriation in Operating Transfer Out (Object Code 5801) by \$9,576 (4/5 vote required); and
  
  - C) Approve Amendment No. 1 to the agreement between the County of Inyo and Wadell Engineering Corp. (WEC) of Burlingame, CA, to increase the contract to an amount not to exceed \$126,465.00, and authorize the Chairperson to sign, contingent upon receipt of the forthcoming FAA grant for the Lone Pine/Death Valley Airport Runway Rehabilitation Project and all appropriate signatures being obtained.

**COMMENT** (Portion of the Agenda when the Board takes comment from the public and County staff)

27. ***PUBLIC COMMENT***

**BOARD MEMBERS AND STAFF REPORTS**





# County of Inyo



## Community Organization

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Assistant Clerk of the Board

**SUBJECT:** Proclamation Declaring October 18 Community Pink Day

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**RECOMMENDED ACTION:**

**PROCLAMATION - Eastern Sierra Cancer Alliance** - Request Board: A) receive brief presentation on local breast cancer awareness outreach efforts and activities; and B) approve a proclamation declaring October 18, 2019 Community Pink Day in Inyo County.

**SUMMARY/JUSTIFICATION:**

Eastern Sierra Cancer Alliance (ESCA) and its community partners, Northern Inyo Hospital, Southern Inyo Hospital, and Toiyabe Indian Healthcare Project, are again collaborating to sponsor and support activities and events in support of Breast Cancer Awareness Month in October.

ESCA is asking your Board to proclaim October 18, 2019 "Community Pink Day" in Inyo County in observance of Breast Cancer Awareness Month and National Mammography Day.

NIH will additionally observe National Mammography Day on October 18 with programs at the hospital, and ESCA will be holding its annual Walk/Run the next day, October 19, at Bishop City Park.

Representatives from ESCA will be in attendance with representatives from NIH, SIH, and Toiyabe in a collaborative show of support to discuss these awareness and outreach efforts, and to formally request the Board approve a proclamation in support of Community Pink Day, when residents are encouraged to wear pink apparel and ribbons.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

Eastern Sierra Cancer Alliance is a grassroots non-profit organization founded in 2001, initially with the mission to support and provide resources to residents diagnosed with breast cancer. The organization has expanded over the past 19 years to serve residents diagnosed with all forms of cancer.

ESCA works with other organizations, businesses, and agencies to provide financial and moral support for clients and families as they cope with their cancer diagnosis and costs of treatment. ESCA and its partners also work to educate the community about different forms of cancer in an effort to increase awareness of current practices

and positive outcomes in treating cancers.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to approve the proclamation but this is not recommended.

**OTHER AGENCY INVOLVEMENT:**

Eastern Sierra Cancer Alliance, Northern Inyo Hospital, Southern Inyo Hospital, Toiyabe Indian Healthcare Project

**FINANCING:**

There are no fiscal impacts associated with approving this proclamation.

**ATTACHMENTS:**

1. Proclamation - Community Pink Day 2019

**APPROVALS:**

Darcy Ellis	Created/Initiated - 9/11/2019
Clint Quilter	Final Approval - 9/12/2019



**PROCLAMATION  
OF THE BOARD OF SUPERVISORS,  
COUNTY OF INYO, STATE OF CALIFORNIA  
DECLARING OCTOBER 18, 2019  
COMMUNITY PINK DAY IN INYO COUNTY**



**WHEREAS**, Eastern Sierra Cancer Alliance is a grassroots organization founded in 2001, initially with the mission to support and provide resources to residents diagnosed with breast cancer; and

**WHEREAS**, the non-profit organization has expanded in both size and scope over the past 19 years to serve residents of Inyo and Mono counties diagnosed with all forms of cancer; and

**WHEREAS**, for almost two decades ESCA Board members have coordinated their efforts with countless compassionate volunteers and community organizations in service to those with cancer diagnoses – friends, family members, neighbors; and

**WHEREAS**, this service includes educating the community in an effort to increase community awareness of current practices and positive outcomes in treating cancers today and the resources ESCA and other organizations offer; and most importantly, providing financial and moral support for clients and families as they cope with their cancer diagnosis and costs of treatment; and

**WHEREAS**, ESCA continues to work diligently to maintain a respectful relationship with its clients and the organizations and individuals with which it partners; and

**WHEREAS**, gaining the trust and commitment of various Inyo and Mono organizations, businesses, and healthcare agencies has allowed ESCA to continue its mission, improve programs, and serve more than 300 clients since 2001 – many of whom have needed repeat assistance due to travel out of the area for oncology appointments and cancer treatments; and

**WHEREAS**, October has always been a special month for ESCA and its partners, since it is Breast Cancer Awareness Month, and the organization was originally founded to bring awareness to the disease and support those diagnosed with it; and

**WHEREAS**, breast cancer did not become part of the national and public conversation until the 1970s, and even then change was slow for women to receive the support they needed and for necessary medical research taking place in order to treat breast cancer with improved outcomes; and

**WHEREAS**, today, the American Cancer Society urges women to speak with their doctors about their risk for breast cancer, and the ACS has updated breast screening mammogram recommendations based on age and family history; and

**WHEREAS**, the color pink is now the universally recognized color of breast cancer awareness; and

**WHEREAS**, ESCA continues to recognize the importance of both breast cancer awareness and mammography as a screening tool and hopes to inspire and invite the communities of Inyo and Mono counties to join in its mission, supporting and cheering for friends, neighbors and family members with cancer in a fun, positive way by participating in “Community Pink Day.”

**NOW, THEREFORE**, the Inyo County Board of Supervisors does hereby join ESCA in its mission by unanimously proclaiming October 18, 2019 as Community Pink Day in observance of Breast Cancer Awareness and National Mammography Day.

**PASSED AND PROCLAIMED** this 17<sup>th</sup> day of September 2019.

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Chairperson, Inyo County Board of Supervisors

Attest: *CLINT G. QUILTER*  
Clerk of the Board

by: \_\_\_\_\_  
Assistant Clerk of the Board



# County of Inyo



## Health & Human Services - Behavioral Health

### DEPARTMENTAL - PERSONNEL ACTIONS - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Lucy Vincent

**SUBJECT:** Request for authorization to hire one A-Par Health and Human Services (HHS) Specialist I in the HHS Behavioral Health Division.

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**RECOMMENDED ACTION:**

Request Board find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for one (1) APAR Health and Human Services Specialist I exists in the Behavioral Health budget, as certified by the HHS Director and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates may meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but an open recruitment is more appropriate to ensure qualified applicants apply; and C) approve the hiring of one (1) APAR Health and Human Services Specialist I at Range 50PT (\$15.60-\$19.01/hr.).

**SUMMARY/JUSTIFICATION:**

An A-Par HHS Specialist I position in the Behavioral Health Division is vacant as an employee in this this position moved out of the area. This position is an entry level position targeted especially towards persons who have lived experience with the behavioral health system. The Specialist will provide a range of services, both direct service provision as a Peer Specialist and as part of the team in support of the Wellness Center through welcoming, reception, and linkage to staff and other resources.

The Department respectfully requests your Board's authorization to hire a part-time HHS Specialist I to fill the vacancy.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The Board could choose to not to allow Behavioral Health to hire this position. This would limit our ability to provide peer support services, a critical aspect of the recovery model and part of our MHSA Plan.

**OTHER AGENCY INVOLVEMENT:**

Behavioral Health is a division of Health and Human Services and works in partnership with multiple agencies such as probation, primary health, and law enforcement, in addition to most other HHS divisions. The Adult/Older Adult team works most closely with the primary healthcare providers, social security, landlords, and adult social

services.

**FINANCING:**

State MHSA funds, Medi-Cal reimbursement as allowed, and Mental Health Realignment funds. This position is budgeted 100% in Mental Health (045200) in the salaries and benefits object codes. No County General Funds.

**ATTACHMENTS:**

**APPROVALS:**

Lucy Vincent	Created/Initiated - 8/30/2019
Rhiannon Baker	Approved - 8/30/2019
Darcy Ellis	Approved - 8/30/2019
Marilyn Mann	Approved - 8/30/2019
Meaghan McCamman	Approved - 8/30/2019
Melissa Best-Baker	Approved - 9/4/2019
Lucy Vincent	Approved - 9/4/2019
Sue Dishion	Approved - 9/6/2019
Amy Shepherd	Approved - 9/9/2019
Marilyn Mann	Final Approval - 9/9/2019



# County of Inyo



## Health & Human Services - Social Services

### DEPARTMENTAL - PERSONNEL ACTIONS - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Rhiannon Baker

**SUBJECT:** Request to hire an Administrative Analyst I or II in Health and Human Services.

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**RECOMMENDED ACTION:**

Request Board find that, consistent with the adopted Authorized Position Review Policy: A) the availability of Social Services and Mental Health funding (no General Funds) for one (1) Administrative Analyst I-II exists, as certified by the HHS Director and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates may meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but as a State Merit System position, an open recruitment would be more appropriate to ensure qualified applicants apply; and C) approve the hiring of either an Administrative Analyst I at Range 68 (\$4,444-\$5,400) or II at Range 70 (\$4,660-\$5,668), dependent upon qualifications.

**SUMMARY/JUSTIFICATION:**

The Administrative Analyst II position in HHS recently became vacant. The Administrative Analyst position collects, monitors, and analyzes data for quality assurance and quality improvement purposes, including meeting state mandated quality assurance requirements for child welfare and In Home Supportive Services (IHSS). The data includes areas such as access, timeliness of services, disparities, cultural competency, client satisfaction, federal program integrity, electronic billing and electronic health records. Data is monitored and analyzed to look for trends and outcomes. This position helps identify opportunities to expand data collection and data collection systems for continuous quality improvement. A primary focus is monitoring and analyzing both short term and long term outcomes for specialty populations such as inmates re-entering the community, to help ensure the Community Correction Partnership (CCP) leadership is making informed policy decisions. This position reports to our HHS Program Integrity and Quality Assurance (PIQA) Manager to ensure that analysis and improvements are within the bigger HHS and County "picture".

The Department is respectfully requesting authorization to recruit and hire an Administrative Analyst I or II in HHS dependent upon qualifications.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

NA

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to authorize the hiring of the Administrative Analyst I or II position. This will limit our ability to develop our expertise in the area of evaluation and outcomes, as well as potentially impact our ability to meet state requirements. This is a critical area as we need to ensure that efficiency and effectiveness is achieved in our use of public funds.

**OTHER AGENCY INVOLVEMENT:**

CA Department of Social Services, Probation, Community Corrections Partnership

**FINANCING:**

State, Federal, and Behavioral and Social Services Realignment funds. This position is currently budgeted 50% in the Social Services Budget (055800) and 50% in the Mental Health Budget (045200) in the Salary and Benefits object category. No County General Funds.

**ATTACHMENTS:**

**APPROVALS:**

Rhiannon Baker	Created/Initiated - 9/3/2019
Marilyn Mann	Approved - 9/3/2019
Meaghan McCamman	Approved - 9/4/2019
Melissa Best-Baker	Approved - 9/4/2019
Rhiannon Baker	Approved - 9/5/2019
Darcy Ellis	Approved - 9/6/2019
Sue Dishion	Approved - 9/6/2019
Amy Shepherd	Approved - 9/9/2019
Marilyn Mann	Final Approval - 9/9/2019



# County of Inyo



## Clerk/Recorder

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:**

**SUBJECT:**

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**RECOMMENDED ACTION:**

Request Board: A) declare CyberScout, LLC of Scottsdale, AZ a sole-source provider of Establishing & Executing an Election Vulnerability Management Process; B) approve the agreement between the County of Inyo and CyberScout, LLC of Scottsdale, AZ for the provision of Establishing & Executing an Election Vulnerability Management Process in an amount not to exceed \$10,000 for the period of December 5, 2019 through December 5, 2020; and C) authorize the Clerk-Recorder to sign, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

In 2018, in response to allegations of election meddling in the 2016 Presidential Election cycle, Congress allocated \$380 million to help safeguard U.S. voting systems from cyber-attacks.

As per Resolution 2006-33, the Inyo County Clerk-Recorder has been delegated the authority to negotiate, execute and submit all required documentation to apply for Grant Funding offered by the Help America Vote Act (HAVA). On April 19, 2019, we received an executed contract with the California Secretary of State in the amount of \$10,000 to provide the County of Inyo with HAVA Federal funds provided by the U.S. Election Assistance Commission (EAC) for county efforts to improve cyber security and infrastructure related to VoteCal.

Since 2016, the Inyo County Elections office has taken several steps to further secure our election infrastructure including:

1. Purchased a new voting system that is wi-fi disabled, air-gapped and is not connected to the internet.
2. Joined the Multi-State Information Security & Analysis Center (MS-ISAC) and the Election Infrastructure Information Security & Analysis Center (EI-ISAC).
3. Contracted with the Department of Homeland Security (DHS) to receive their no-cost services which include: a Cyber-Hygiene Vulnerability Scan, a Risk and Vulnerability Assessment and a Phishing Campaign Assessment.
4. Initiated the process of purchasing "Albert", which is a network monitoring solution that provides automated alerts on both traditional and advanced network threats.
5. Upgraded our Elections Website from http to https



## 6. Completed cyber-security training courses

After an extensive evaluation of how best to spend the HAVA grant, it was determined that contracting with an independent Cyber-security firm to complete an internal forensic evaluation of network activity during the 2020 election cycle, would be the best use of these funds to assure voters that not only is Inyo County taking every precaution to prevent election hacking or intrusion, but that we can evaluate all activity to analyze forensically whether any of our systems were breached and to what extent.

To accomplish the forensic analysis, Cyber-scout will place a device in each of our local County networks that include voter data. Once the device is in place, CyberScout will perform these steps each quarter:

1. Run technical scans on all relevant segments of the internal network, looking for evidence of adversary activity.
2. Review the results and rank the findings in terms of severity of the risk and the likelihood that the detected activity may lead to a breach.
3. They may use manual and further automated techniques to determine what can be exploited using discovered vulnerabilities.
4. Collaborate with County to assign an individual or group to remediate the issue and report when it is complete.

### Objective 1:

- A documented process for forensic analysis and incident response for the County.
- A written plan for conducting the testing, including roles and responsibilities for the County personnel.

### Objective 2:

- A listing of each technical issue or vulnerability discovered across Inyo County, along with recommendations for the remediation of each of them.
- Quarterly reports itemizing the discovered activity, along with an indication of their severity and likelihood of consequence.
- A tracking of any previous vulnerability assessment or penetration test as requested.

As County Administrator Clint Quilter said in the FY 19/20 Budget narrative “It is acknowledged that free elections are one of the cornerstones of our democracy and that maintaining the integrity of the systems that support them is of utmost importance. “ For this reason, we are asking that the Inyo County Board of Supervisors authorize the requested contract to ensure we are taking every necessary step to safeguard our elections during the 2020 Presidential Primary election cycle.

## **BACKGROUND/HISTORY OF BOARD ACTIONS:**

### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The Board could deny the request to award this Sole-Source contract and require the Clerk-Recorder to issue an RFP for services.

**OTHER AGENCY INVOLVEMENT:**

Information Services

**FINANCING:**

Funds to reimburse \$10,000 will be forwarded from the Secretary of State under the provisions of HAVA Grant Agreement #18G27114, contingent on the adoption of the FY 2019-2020 Budget.

**ATTACHMENTS:**

1. CyberScout Contract - 9.3.19
2. HAVA contract #18G27114
3. Resolution 2006-33

**APPROVALS:**

Kammi Foote	Created/Initiated - 8/13/2019
Darcy Ellis	Approved - 8/14/2019
Kammi Foote	Approved - 8/27/2019
Sue Dishion	Approved - 8/28/2019
Amy Shepherd	Approved - 9/4/2019
Marshall Rudolph	Approved - 9/5/2019
Scott Armstrong	Approved - 9/6/2019
Aaron Holmberg	Final Approval - 9/6/2019

# MASTER SERVICES AGREEMENT

This Master Services Agreement, including all attached exhibits and appendices ("Agreement") is entered into between CyberScout, LLC, a Delaware limited liability company with its principal executive offices at 7580 N. Dobson Rd., Suite 201, Scottsdale, AZ 85256 ("CyberScout"), and the party indicated below ("Client"), effective as of the date indicated below ("Effective Date"). CyberScout and Client each may be referred to as a "Party" and collectively as the "Parties."

## County of Inyo

*Name of Client*

## P.O. Drawer F Independence, CA 93526

*Principal Office Address*

9/3/2019

*Effective Date*

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged, the Parties agree as follows:

### 1. PROVISION OF SERVICES

1.1 During the Term of this Agreement, CyberScout shall provide each service as described separately in each statement of work ("SOW") mutually agreed to by the Parties (the "Services"). Each executed SOW shall be attached hereto in sequential order as Appendix A-1, A-2, etc. and is deemed part of this Agreement. The main body of this Agreement shall control over any conflicting provisions in an SOW, unless such SOW expressly states that the conflicting provision should prevail over the main body of this Agreement.

1.2. If Client has requested that CyberScout provide the Services on behalf of one of Client's customers, insureds, or clients, Client shall require such customer, insured and/or client to enter into a written agreement with Client that is at least as protective of CyberScout as this Agreement and which shall include the disclaimer of warranties and limitations of liability set forth below for protection of CyberScout. Client shall use best efforts to enforce the agreement on behalf of CyberScout as may be requested by CyberScout from time to time.

### 2. FEES; PAYMENT

The fees for the Services shall be as set forth in the applicable SOW and Client shall pay the fees in accordance with the payment provisions in the SOW. Client agrees to pay a late charge at the rate of one and one-half percent (1.5%) per month, or the maximum lawful rate permitted by applicable law, whichever is less, for all amounts not paid when due.

### 3. TERM AND TERMINATION

3.1 Term. This Agreement will begin on the Effective Date and will continue in effect until otherwise terminated in

accordance with Section 3.2 below. The term of each SOW shall be set forth in the SOW.

3.2 Termination. Notwithstanding the foregoing, either Party may terminate this Agreement or any SOW (i) immediately in the event of a material breach of this Agreement or any such SOW by the other Party that is not cured within thirty (30) days of written notice from the other Party, or (ii) immediately if the other Party ceases doing business or is the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding, that is not dismissed within sixty (60) days of filing. In addition, CyberScout may terminate this Agreement or any SOW in its sole discretion, immediately upon written notice, if Client fails to timely pay any invoice. Termination of an SOW shall not be deemed a termination of this Agreement. Termination of this Agreement shall, however, terminate all outstanding SOWs. Either Party may also terminate this Agreement upon no less than thirty (30) days' prior written notice to the other Party for any reason, if at such time there are no outstanding SOWs then currently in effect. All rights and obligations of the Parties which by their nature are reasonably intended to survive such termination or expiration will survive termination or expiration of this Agreement and each SOW. Except as expressly provided herein, termination of this Agreement by either party will be a nonexclusive remedy for breach and will be without prejudice to any other right or remedy of such party.

### 4. INDEMNIFICATION

4.1 Indemnification Obligations. Each Party (the "Indemnifying Party") will indemnify, defend and hold harmless the other Party, its parents, subsidiaries, affiliates, directors, officers, employees, agents and sub-contractors (any such party seeking indemnification, the "Indemnified Party") from and against any third party claims (including reasonable attorneys' fees and expenses and damages awarded by a court of competent jurisdiction or agreed to in settlement) alleging the gross negligence or willful misconduct of the Indemnifying Party in connection with this Agreement.

4.2 Indemnification Procedures. The Indemnified Party will promptly notify the Indemnifying Party of any Claim for which the Indemnified Party is seeking indemnification pursuant to this Section 4. The Indemnifying Party may thereafter assume control of such Claim, provided that the Indemnified Party will have the right to participate in the defense or settlement at its own expense. Neither the Indemnifying Party nor the Indemnified Party may unilaterally settle any such Claim or consent to any judgment with respect thereto. The Indemnified Party will provide the Indemnifying Party with a reasonable amount of assistance in connection with defending or settling any such Claim.

### 5. LIMITATION OF LIABILITY

5.1 Consequential Damage Exclusion. Neither Party (including CyberScout's licensors and suppliers) will be liable to the other or any third party for loss of profits or for any special, indirect, incidental, consequential or exemplary damages (including without limitation, damages for loss of

business profits, loss of goodwill, business interruption, loss of business information and/or data) in connection with this Agreement, or the performance of any obligations under this Agreement, even if it is aware of the possibility of the occurrence of such damages, provided such consequential damages were not due to a Party's grossly negligent acts and/or omissions or willful or intentional misconduct.

5.2 Limitation of Liability. Except for a Party's breach of Section 6 or its willful misconduct, and excluding Client's payment obligations under this Agreement, the total cumulative liability of each Party for any and all claims and damages under this Agreement, whether arising by statute, contract, tort or otherwise, will not exceed three (3) times the amount of the fees paid by Client to CyberScout hereunder during the twelve (12) month period immediately preceding the event giving rise to the claim. The provisions of this Agreement allocate risks between the Parties. The pricing set forth in each SOW reflects this allocation of risk and the limitation of liability specified herein.

## **6. CONFIDENTIALITY**

Except as otherwise provided in this Agreement or with the consent of the other party hereto, the Parties agree that all information concerning CyberScout or Client, or any of their respective affiliates, and provided by or on behalf of any of them, including without limitation information regarding either Party's marketing, strategies, processes and methods, information systems, business operations, and business systems, and information about Client's Customers ("Confidential Information"), shall remain confidential and shall not be utilized or disclosed, directly or indirectly, by the Party receiving such information for its own business purposes or for any other purpose, except and solely to the extent that any such information is: (a) already known by, or in the possession of the non-disclosing Party, (b) thereafter rightly obtained by the non-disclosing Party from a source other than the disclosing Party that is rightfully in possession of such information and that has not imposed an obligation of confidentiality upon the recipient Party, (c) is independently developed by a Party without reference to the Confidential Information of the other Party, (d) is or becomes publicly known through no wrongful act of the non-disclosing Party, or (e) the disclosing Party consents to the disclosure. Client agrees that CyberScout Materials and the substance and terms of this Agreement and the relationship between the Parties (including pricing, scope, and methodology), shall remain confidential. Notwithstanding the foregoing, each Party is hereby authorized to disclose any such information to the extent that it is required to be disclosed as a matter of law, provided that, to the extent permitted by law, the disclosing Party uses all reasonable efforts to provide the non-disclosing Party with at least ten (10) days' prior written notice of any such required disclosure.

## **7. OWNERSHIP RIGHTS**

7.1 As between CyberScout and Client, Client retains ownership of all right, title and interest in and to all information, data, and materials provided by Client to CyberScout in connection with this Agreement or the Services (excluding materials that are in the public domain).

7.2 As between CyberScout and Client, CyberScout retains all ownership and other intellectual property rights in and to the Services and everything developed, designed or created by CyberScout before or in the course of providing the Services hereunder, including processes, methods, know-how, and works of authorship. If applicable, all third party services, products, and applications provided or made available in connection with the CyberScout Services are and shall remain the property of the third party provider.

## **8. DISCLAIMERS OF WARRANTIES**

8.1 CYBERSOUT PROVIDES THE SERVICES WITHOUT WARRANTY. MORE SPECIFICALLY, CYBERSOUT EXPRESSLY DISCLAIMS ALL IMPLIED AND EXPRESS WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND MAKES NO WARRANTY THAT (i) SERVICES PROVIDED REMOTELY OR OVER THE INTERNET WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, OR (ii) BY RETAINING CYBERSOUT FOR THE SERVICES OR IMPLEMENTING CYBERSOUT'S RECOMMENDATIONS, CLIENT WILL AVOID, PREVENT OR RESOLVE A DATABASE COMPROMISE, UNAUTHORIZED DISCLOSURE OF PII OR PHI, OR SECURITY INCIDENT, OR WILL AVOID LEGAL ACTION BY IMPACTED INDIVIDUALS, GOVERNMENT AGENCIES, OR REGULATORY BODIES.

8.2. THE RESULTS OF THE SERVICES ARE DEPENDENT ON THE INFORMATION MADE AVAILABLE TO CYBERSOUT. THE ACCURACY AND RELIABILITY OF THE RESULTS OF THE SERVICES MAY BE COMPROMISED IF CLIENT FAILS TO MAKE INFORMATION AVAILABLE TO CYBERSOUT OR PROVIDES INACCURATE OR UNRELIABLE INFORMATION, AND CYBERSOUT SHALL HAVE NO LIABILITY AS A RESULT THEREOF.

8.3. WHILE CYBERSOUT WILL PROVIDE GUIDANCE REGARDING THE PROVISION OF SERVICES AND WILL MAKE SPECIFIC RECOMMENDATIONS AS PART OF THE SERVICES, CYBERSOUT CANNOT AND WILL NOT RENDER LEGAL ADVICE OR BE RESPONSIBLE FOR CLIENT'S ACTIONS OR INACTION WITH RESPECT THERETO. FINAL RESPONSIBILITY FOR ANY ACTIONS TAKEN BY CLIENT OR INACTION OF CLIENT REGARDING (I) FOLLOWING OR IMPLEMENTING CYBERSOUT'S GUIDANCE AND RECOMMENDATIONS AND (II) HANDLING ANY ASPECTS, LEGAL OR OTHERWISE, OF A SECURITY INCIDENT, DATABASE COMPROMISE, OR UNAUTHORIZED DISCLOSURE OF PII OR PHI WILL REST SOLELY WITH CLIENT, ITS MANAGEMENT, AND ITS LEGAL COUNSEL.

## **9. MISCELLANEOUS**

9.1 No Assignment/Inurement. Neither Party will assign this Agreement, in whole or in part, without the prior written consent of the non-assigning Party; provided, however that CyberScout may assign this Agreement to its successor in a merger, acquisition or other consolidation, including without limitation the sale of all or substantially all of its assets, stock or business to which this Agreement relates. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their permitted assigns.

9.2 Subcontractors. CyberScout may perform certain aspects of the Services using subcontractors, in which case the subcontractors' permitted expenses shall be reimbursable to the same extent as if they were incurred directly by CyberScout itself and, if the Parties have agreed that CyberScout's fees shall be based on time spent on the engagement, the subcontractors' time shall be billed at the same rate as CyberScout's. CyberScout shall remain responsible at all times for the provision of the Services and shall be liable for acts or omissions of the subcontractors in the course of performing Services to the same extent as if they were acts or omissions of CyberScout itself.

9.3 Waiver. No Party shall be deemed to have waived any of its rights, powers or remedies hereunder unless such waiver is embodied in writing executed by such Party. The waiver by either Party of any breach or default by the other Party in the performance of any obligation hereunder shall not constitute a waiver of any subsequent breach or default.

9.4. Governing Law and Dispute Resolution. This Agreement shall be interpreted, construed, governed and enforced under the laws of the State of ~~Arizona~~California, excluding its conflicts of laws principles. For the purpose of resolving any dispute with respect to this Agreement, each Party agrees to non-exclusive personal jurisdiction and venue in any court of competent jurisdiction within ~~Inyo~~Maricopa County, ~~California~~Arizona. **With respect to any litigation arising out of this Agreement, each Party expressly waives any right it may have to a jury trial.** Before resorting to litigation, the Parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures, sharing the costs of the mediator and the American Arbitration Association equally. If litigation shall be commenced to enforce, or relating to, any provision of this Agreement, the prevailing Party shall be entitled to an award of reasonable attorneys' fees and of all such other costs and disbursements (without regard to whether they are statutory costs) as it reasonably incurs in prosecuting or defending such litigation, including appeals.

9.5. Notices. Any notice provided for under this Agreement shall be in writing and shall be deemed given (i) when delivered on a business day if delivered personally during normal business hours at the place of receipt; (ii) on the next business day at the place of receipt after deposit with any overnight courier for next business day delivery; or (iii) the date of receipt if delivered by certified mail, return receipt requested, postage prepaid. Any notice provided for under this Agreement shall be addressed to the recipient's address set forth in this Agreement, but either party may change the address to which notice or payment is to be sent by giving written notice to the other in accordance with this Section 9.5.

9.6. Severability. If any provision of this Agreement shall be held illegal, invalid or unenforceable, that provision shall be

enforced to the greatest extent permissible so as to effect the Parties' intent, and the legality, validity and enforceability of the remaining provisions shall not be affected or impaired.

9.7. Force Majeure. A Party shall be excused from performance to the extent such performance is prevented or delayed by an event beyond its reasonable control ("Event of Force Majeure"), including without limitation acts of God, fire, explosion, strikes, accident, floods, embargoes, epidemics, war, nuclear disaster, riot, change in applicable law, acts of a competent authority, disruption of telecommunications, power or other essential services, or interruption or termination of service by the Internet access provider being used by such Party for reasons outside of its control, including the actions of "hackers" or other hostile entities or persons, and infections by malicious code or any electronic disruptions, physical disruptions, or unauthorized access. The affected Party shall promptly notify the other Party in writing of the Event of Force Majeure and will use commercially reasonable efforts to minimize the impact of the event.

9.8. Entire Agreement. This Agreement sets forth the entire Agreement and understanding among the Parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, proposals, and understandings among them involving the subject matter hereof, including any proposal previously provided by CyberScout describing a suggested scope or approach to any services. This Agreement shall be effective only when signed by all the Parties and may be modified only by a written instrument signed by the Parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" (".pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature and shall for all purposes be treated as an original.

9.9 Survival. Sections 4 through 9 shall survive any termination or expiration of this Agreement.

9.10 Headings. Except as provided in the immediately preceding subparagraph, headings used in this Agreement are for reference only and in no way define or limit the scope or extent of any provision of this Agreement. This Agreement will be construed in accordance with its fair meaning, with no inference drawn against the drafting Party.

9.11 Relationship of the Parties. The Parties enter this Agreement as independent contractors. This Agreement does not create a partnership, joint venture or employment relationship and neither Party will represent itself as an employee or agent of the other or enter into any Agreement on the other's behalf.

(Signature Page Follows)

Executed and delivered by the parties' authorized representatives on the last date indicated below.

**County of Inyo**

**CyberScout, LLC**

\_\_\_\_\_  
*Signature of Authorized Representative*

\_\_\_\_\_  
*Signature of Authorized Representative*

\_\_\_\_\_  
*Print Name of Signer*

\_\_\_\_\_  
*Print Name of Signer*

\_\_\_\_\_  
*Print Title of Signer*

\_\_\_\_\_  
*Print Title of Signer*

\_\_\_\_\_  
*Date Signed*

\_\_\_\_\_  
*Date Signed*

**CyberScout Use Only**  
  
Contract No. 00003827

## APPENDIX A-1 - STATEMENT OF WORK

THIS STATEMENT OF WORK FOR CONSULTING SERVICES (the "SOW") is entered into between CyberScout, LLC, a Delaware limited liability company with its principal offices at 7580 N. Dobson Road, Suite 201, Scottsdale, AZ 85256 ("CyberScout"); and the party indicated below ("Client"), effective as of the date indicated below ("Effective Date").

### County of Inyo

*Name of Client*

**9/3/2019**

*Effective Date*

This SOW is subject to the Master Services Agreement executed by the Parties herewith (the "Agreement"). Defined terms not otherwise defined herein shall have the meaning accorded to such terms in the Agreement. In the event of any conflict between the terms of this SOW and the Agreement, the terms of the Agreement shall control unless expressly otherwise agreed herein.

#### 1. PERFORMANCE PERIOD

The performance period for this SOW shall begin on December 1, 2019 (services will not be performed and fees will not be incurred prior to that date). The performance period will continue for a period of one year, with the SOW concluding as of December 1, 2020 unless the Agreement is terminated earlier as provided therein.

#### 2. CYBERSCOUT OBLIGATIONS

2.1 Subject to the terms and conditions set forth herein, including payment of the applicable fees, CyberScout shall provide the consulting services specified in Exhibit A to this Appendix A-1 (the "Services"). Exhibit A is incorporated by reference herein.

2.2 Upon completion of the Services, CyberScout shall securely destroy all Client Materials (as defined below in Section 3.1) provided to CyberScout and in CyberScout's possession using secure destruction methods and processes, and shall, upon request, provide Client with written confirmation of such destruction. Any copies of such Client Materials that may exist in CyberScout's backup tapes or similar backup media shall be destroyed pursuant to CyberScout's standard schedule.

#### 3. CLIENT OBLIGATIONS

3.1 Client shall deliver or make available all information, computer software and hardware, and other related materials necessary for CyberScout to perform the Services ("Client Materials") via a delivery method mutually agreed to by the parties, which may be by e-mail. If the parties

mutually agree to use a courier service such as Federal Express or UPS or other similar vendor, CyberScout shall have no responsibility for any delay in the performance of the services caused by the failure of the courier service to deliver the Client Materials. If CyberScout provides a device to Client as part of the engagement for purposes of connecting to Client's network or system, Client acknowledges that the device will need to be returned to CyberScout.

3.2 Client shall provide a single point of contact to coordinate requests for information, access to systems/data, and scheduling of meetings.

3.3 With respect to any electronic devices and/or any files, accounts, or data that Client provides to CyberScout or permits CyberScout to access hereunder, Client warrants that it owns such devices, files, accounts, and data or otherwise has the necessary permissions to give CyberScout or its subcontractors access to same, including where applicable and necessary any consent or authorization required to be obtained from an identifiable individual.

#### 4. FEES; INVOICING; PAYMENT

4.1 Fees. In consideration for the Services, Client shall pay CyberScout the following fees:

Objective 1	\$2,000.00
Objective 2	\$8,000.00

("Objective 1" and "Objective 2" are defined in the service description attached as Exhibit A to this SOW.) The fees shall be payable upfront upon execution of this SOW.

4.2 Travel Expenses. Client shall also pay for CyberScout's reasonable travel expenses, including commercial airfare (economy class), standard business-class hotel accommodations (no luxury or resort-type accommodations), and reasonable meal expenses. CyberScout will keep meal costs moderate, reflecting rates typical of the area. If it is necessary to use ground transportation, CyberScout will utilize the most cost-effective mode of transportation and will if renting a vehicle select a compact or mid-sized option. CyberScout will obtain Client's advance written approval if it becomes necessary to deviate from these travel guidelines.

4.3 Invoicing; Payment. Fees shall be billed monthly in arrears. CyberScout shall invoice Client each month for the fees incurred during the preceding month and any documented reimbursable expenses. Client shall pay all invoices within thirty (30) days of its receipt of CyberScout's invoice. Invoices are deemed undisputed unless Client provides a written notice explaining the grounds for dispute on or before the date payment would otherwise be due.

*(Signatures Follow after Exhibit A)*

**EXHIBIT A TO APPENDIX A-1**  
**SERVICE DESCRIPTION – ELECTIONS SECURITY ASSESSMENT SERVICES**

**Background:** The goal of this engagement is to put into place a process for monitoring and improving the security and privacy of Inyo County’s election data, reducing the overall risk of a compromise of the election process.

**Scope:** The engagement will include the technology, processes, and organizational controls that the County employs to protect voter data and activities. We will also consider the scope of current assistance the County receives from the Dept. of Homeland Security, as well as its processes for vulnerability management and threat detection. It may also include the network components that house voter rolls, vote counts, or any infrastructure that could represent a risk to security and privacy of voter data.

**Objective 1: Establish a Process to Monitor and Improve County Election Security**

We will work with the County Registrar of Voters and technical staff to place a device in each of the local County networks that may include voter data. This will allow us to remotely conduct a quarterly forensic assessment without traveling to the County. We will also configure the device to allow us to perform forensic investigation in the event of suspicious activity or a breach.

We will begin by developing a process in collaboration with the Registrar and election technology leadership that will define roles and responsibilities. CyberScout will then develop educational material and a detailed technical process for managing the quarterly assessments.

We will develop a reporting process that will be executed each quarter, and we will put the format into place to execute the reporting. We will also document roles and responsibilities for:

- Execution of testing
- Training
- Support
- Maintenance
- Remediation
- Re-testing
- Incident response and forensics

We will establish a timeline for the implementation of the device, and we will establish a timeline for testing that covers the applicable County networks each quarter over the course of the year.

**Objective 2: Execute the Elections Vulnerability Management Process for Inyo County**

Once the device is in place, CyberScout will perform these steps each quarter:

1. Run technical scans on all relevant segments of the internal network, looking for evidence of adversary activity.
2. Review the results and rank the findings in terms of severity of the risk and the likelihood that the detected activity may lead to a breach.
3. We may use manual and further automated techniques to determine what can be exploited using discovered vulnerabilities.
4. Collaborate with County to assign an individual or group to remediate the issue and report when it is complete.

**Results:** The ultimate result will be a reduced risk for privacy and security breaches before and during future elections. Specific deliverables for each objective will include:

**Objective 1:**

- A documented process for forensic analysis and incident response for the County.



- A written plan for conducting the testing, including roles and responsibilities for the County personnel.

Objective 2:

- A listing of each technical issue or vulnerability discovered across Inyo County, along with recommendations for the remediation of each of them.
- Quarterly reports itemizing the discovered activity, along with an indication of their severity and likelihood of consequence.
- A tracking of Inyo County's progress since its previous vulnerability assessment or penetration test.

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Executed and delivered by the parties' authorized representatives on the last date indicated below.

**County of Inyo**

**CyberScout, LLC**

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*Signature of Authorized Representative*

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*Signature of Authorized Representative*

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*Print Name of Signer*

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*Print Name of Signer*

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*Print Title of Signer*

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*Print Title of Signer*

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*Date Signed*

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*Date Signed*



**ALEX PADILLA** | SECRETARY OF STATE | STATE OF CALIFORNIA  
MANAGEMENT SERVICES | CONTRACT SERVICES

1500 11<sup>th</sup> Street, Room 460 | Sacramento, CA 95814 | **Tel** 916.653.5974 | **Fax** 916.653.8324 | [www.sos.ca.gov](http://www.sos.ca.gov)

April 19, 2018

Inyo County  
Attn: Kammi Foote, Registrar of Voters  
PO Drawer F  
Independence CA 93526

Subject: Agreement #18G27114

**Complete the following item(s) and return to the address stated above within ten (10) business days, if necessary:**

- STD. 213, Standard Agreement with attached exhibits. Please acquire the appropriate signature on the first page of the STD. 213, and the additional three single STD 213's and return to the address above. Fax and photocopies are not acceptable. A fully executed copy will be returned to you.
- STD. 213A, Standard Agreement Amendment. Please acquire the appropriate signature for the first page of the STD. 213A and the additional three single STD. 213A's and return to the address above. Fax and Photocopies are not acceptable. A fully executed copy will be returned to you.
- STD. 210, Short Form Contract. Please acquire the appropriate signature for the four single STD. 210's and return. Fax and Photocopies are not acceptable. A fully executed copy will be returned to you.
- STD. 65, Contract / Delegation Purchase Order. Enclosed is an executed copy for your records. You are now authorized to provide services.
- The enclosed agreement is signed on behalf of the Secretary of State. Please process and mail an executed copy of the agreement to the address above.
- Executed copy for your records.
- STD. 204 Payee Data Record (STD. 204) - Complete and return.
- CCC 307 Contractor Certification Clause - Complete and return.
- Please submit a copy of your Seller's Permit.
- Please submit a copy of the resolution, order, motion, or ordinance of your local governing body, which by law has granted the authority to enter into the proposed contract, authorizing execution of the agreement.

**STANDARD AGREEMENT**

STD 213 (Rev. 10/2018)

AGREEMENT NUMBER

18G27114

PURCHASING AUTHORITY NUMBER (if applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Secretary of State

CONTRACTOR NAME

Inyo County

2. The term of this Agreement is:

START DATE

January 2, 2019 or upon approval by Dept. of General Services, if required, whichever is later

THROUGH END DATE

June 30, 2021

3. The maximum amount of this Agreement is:

\$ 10,000.00

Ten thousand Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Scope of Work	2 pages
Exhibit B	Budget Detail and Payment Provisions	3 pages
Exhibit C *	General Terms and Conditions	GTC 04/2017
Exhibit D	Special Terms and Conditions (Attached hereto as part of this Agreement)	3 pages
Exhibit E	Additional Provisions	2 pages
Exhibit F	County Resolution	2 pages
Exhibit G	Contractor HAVA Activity Report	1 pages

*Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.**These documents can be viewed at [www.dgs.ca.gov/ols/resources/standardcontractlanguage.aspx](http://www.dgs.ca.gov/ols/resources/standardcontractlanguage.aspx)*

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Inyo County

CONTRACTOR BUSINESS ADDRESS

P.O. Drawer F

CITY

Independence

STATE

CA

ZIP

93526

PRINTED NAME OF PERSON SIGNING

Kammi Foote

TITLE

Inyo County Registrar of Voters

CONTRACTOR AUTHORIZED SIGNATURE



DATE SIGNED

12/24/2018

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

Secretary of State

CONTRACTING AGENCY ADDRESS

1500 11<sup>th</sup> Street

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Shannon Kauffman

TITLE

Business Operations Manager

CONTRACTING AGENCY AUTHORIZED SIGNATURE



DATE SIGNED

1/28/19

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION, IF APPLICABLE

Gov Code § 14616

**EXHIBIT A**  
**(Standard Agreement)**

**SCOPE OF WORK**

**A. PURPOSE OF AGREEMENT**

The purpose of this Agreement is to provide the County of **Inyo** (County) with Help America Vote Act (HAVA) Federal funds provided by the U.S. Election Assistance Commission (EAC) for county efforts to improve cyber security and infrastructure related to VoteCal.

1. The program representatives during the term of this Agreement will be:

County: **Kammi Foote (760) 878-0224**  
SOS: **Harjit Basi (916) 695-1627**

**B. APPROPRIATE USES OF HAVA FUNDS**

HAVA funds received pursuant to this contract shall be used for reimbursement for costs reasonably incurred for:

1. Conducting security assessments, such as: penetration testing, scanning, phishing testing, red team exercises, social engineering, and wireless access discovery. An assessment should, at a minimum, include a review of:
  - Critical, high risk technology systems.
  - User access controls and passwords.
  - Internet facing systems to identify public facing vulnerabilities and configuration errors.
  - Applicable regulations and standards.
  - Multiprotocol Label Switching network access points between VoteCal and the county.
  - Patch management strategy.
  - All sensitive data that is maintained and its protection.
  - Incident response plans.
2. Third party software and/or hardware in support of improving the county's cyber security capabilities related to VoteCal. All hardware and/or third-party software must be in support of VoteCal infrastructure related to cyber security.
3. Software, hardware or consulting services and/or any associated IT installation directly related to cyber security risks.
4. Privacy and security awareness training to all staff utilizing the county voter registration and election information systems in accordance with State Administrative Manual (SAM) Sections 5320 – 5320.2 and the Information Practices Act of 1977 (California Civil Code §§1798 et seq). Training shall include cyber security best practices, including how to recognize a phishing email, creating and maintaining strong passwords, utilizing multi-factor authentication, and avoiding dangerous applications.

**EXHIBIT A  
(Standard Agreement)**

5. Physically securing servers hosting county voter registration and election information systems including the county's Election Management System (EMS) and county EMS databases as well as any Secretary of State property.
6. Properly updating and hardening servers hosting the county voter registration and election information systems including the county's EMS and county EMS databases as well as any Secretary of State property.
7. Establishing, maintaining and participating in the dedicated VoteCal County Test Environment (CTE).
8. Services to improve security practices and documentation, including drafting and documenting information security policies and procedures, an incident response plan to handle a security or data breach, or other critical documents related to security.
9. Monitoring systems and applications to prevent and detect data breaches or fraud including interconnected systems.

Items presumed to not be reimbursable:

The following is a partial list of items presumed to not be reimbursable and not inclusive of all items that are not reimbursable. The list is provided only for the purpose of providing guidance. The Secretary of State shall be the sole determiner if an expenditure is reimbursable.

1. Costs not directly related to VoteCal infrastructure security.
2. Overhead costs.
3. Computers/Laptops/Tablets.
4. Blackberries/Smartphones (hand held computers).
5. Other office equipment, including but not limited to fax machines, copiers and scanners, unless prior approval has been obtained from the granting agency.
6. Office supplies, including but not limited to paper, pens and post-it notes.
7. Travel costs.

**C. CONDITION FOR RECEIVING FUNDS**

The County may seek reimbursement for the activities identified above, provided that the County has done both of the following within the six months preceding the claim for reimbursement:

1. Conducted an assessment identified in B(1) above.
2. Conducted privacy and security awareness training for all staff utilizing the county voter registration and election information systems including cyber security best practices identified in B(4) above.
3. Invoices must include itemized list of costs prior to reimbursement.

**EXHIBIT B  
(Standard Agreement)**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Invoicing and Payment**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices submitted with supporting documentation, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Office of Secretary of State  
Attention: Accounts Payable  
P.O. Box 944260  
Sacramento, CA 94244-2600

Invoices may be submitted via email to [AccountsPayable@sos.ca.gov](mailto:AccountsPayable@sos.ca.gov). Please contact Accounts Payable at (916) 653-9165 for any further questions regarding invoices.

- C. VoteCal will reimburse County as specified in Exhibit A 'Scope of Work', Section B 'Appropriate Uses of HAVA Funds'.

**2. Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act, or a HAVA Spending Plan or Spending Plan amendment, of the current year and/or subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act, or by a HAVA Spending Plan or Spending Plan amendment, for purposes of this program, the State shall have the option to either cancel the Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

**3. Federal Funds**

- A. It is mutually understood between the parties that this contract may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
- B. This contract is valid and enforceable only if the United State Government for the fiscal year 2018/19, for the purpose of this program, makes sufficient funds available to the state. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this contract in any manner.
- C. The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.

**EXHIBIT B  
(Standard Agreement)**

D. The department has the option to **invalidate** the contract under the 30-day cancellation clause or to amend the contract to reflect any reduction in funds.

**4. Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in Government Code Chapter 4.5, commencing with Section 927.

**5. Maximum Amount of HAVA Funds to be Provided to County Under this Program**

County shall not receive, pursuant to Agreement, more than \$ **10,000.00**.

**6. Failure to Properly Claim Maximum Amount of HAVA Funds**

Notwithstanding any provision of Agreement, County shall be entitled to receive only those amounts for fully supported and appropriate claims which are properly submitted, pursuant to the provisions of Agreement and all applicable state and federal laws, regulations, and procedures.

**7. Basis of Claims**

Subject to the provisions of Paragraph 9, below related to the applicability of OMB Circular A-87, all claims for HAVA funds under this program must be based on invoices submitted by County. All invoices or agreements that are the subject of any claims must relate directly to expenditures authorized pursuant to Exhibit A 'Scope of Work', Section B 'Appropriate Uses of HAVA Funds'.

**8. Processing of Claims**

The Secretary of State shall establish the criteria and processes for submitting claims under this program. Such criteria shall include requirements that all claims:

- A. Contain a face sheet that summarizes each expenditure made as set forth in Exhibit A 'Scope of Work';
- B. Include the total amount of the claim;
- C. Include the agreement number on the face sheet;
- D. Identify whether additional claims are expected to be submitted;
- E. Include the hourly charge of any county staff for which a claim is made for their time;
- F. Include the hourly wage or monthly salary of any employee for which a claim is made for their salaries;
- G. Include signed County staff HAVA Activity Reports, please see sample which is Exhibit G, for each employee and County's employee for whom reimbursement for time is being claimed. (Vendors who receive payment from HAVA funds are required to submit timesheets for any work paid for as time and materials); and
- H. Include a copy of the contract if the County's invoice does not describe the activities undertaken in such a manner that the State can determine whether the activities comply with the provisions of this Agreement.

**EXHIBIT B  
(Standard Agreement)**

**9. Application of OMB Circular A-87**

OMB Circular A-87 ("Cost Principles for State, Local and Indian Tribal Governments"), incorporated herein by reference, to the extent applicable, shall govern with respect to all aspects of this program. The provisions of OMB Circular A-87 may be found at <http://www.whitehouse.gov/omb/circulars>.

**10. Retroactive Payments**

Counties may claim reimbursement for expenses and activities permissible under the terms of this Agreement that occur after April 1, 2018 and before June 30, 2021.

**11. Payments of Claims**

Payments made by the State with respect to any claim shall be sent directly by the State Controller's office to the County.

**12. Deadline for Submitting Claims**

The deadline for submitting any claim under this program is September 30, 2021, which is 60 days after the expiration date of this agreement.

**13. Multiple Claims**

County can submit multiple claims for HAVA funds authorized above, within the aggregate limit established for County.

**14. Documentation to be Submitted**

Each claim shall include a cover page that identifies the activity or service in Exhibit A and the dollar amount associated with each activity or service for which funds are being sought. Each claim shall also include originals or true copies of all invoices, agreements, or other documentation that support the claim, including all documentation required by OMB Circular A-87. The provisions of OMB Circular A-87 may be found at <http://www.whitehouse.gov/omb/circulars>.

**15. Order of Processing**

Claims shall be processed by the Secretary of State in order of receipt.



**EXHIBIT D  
(Standard Agreement)**

**SPECIAL TERMS AND CONDITIONS**

**A. AUDITING**

1. Receipt of HAVA funds by a county indicates agreement to establish a dedicated HAVA account for these funds. Therefore, any payment received by County pursuant to this program shall be deposited in a separate, segregated account and any payment made by County related to this program shall be paid from that account whether or not the County has paid the vendors for services rendered before submitting invoices to the State.
2. Any recipient of federal funds to meet the Help America Vote Act requirements agrees to be audited pursuant to federal and state law. Accordingly, all documents and electronic files must be produced upon request by the auditors. CFDA Number for this contract is 39.011. The audit may include a review of all books, papers, accounts, documents, or other records of County as they relate to any HAVA funds. County shall also provide access to all employees having knowledge of the HAVA funds program to assist the auditor. County shall provide a copy of any document, paper, or electronic record requested by the auditor;
3. OMB Circular A-133 ("Audits of States, Local Governments, and Non-Profit Organizations"), and OMB Circular A-87, incorporated herein by reference, shall govern with respect to all aspects of this program. The provisions of these circulars may be found at <http://www.whitehouse.gov/omb/circulars>;
4. County shall maintain records in a manner that:
  - a. Accurately reflects fiscal transactions with necessary controls and safeguards;
  - b. Provides complete audit trails, based whenever possible on original documents (purchase orders, receipts, progress payments, invoices, timesheets, cancelled warrants, warrant numbers, etc.);
  - c. Provides accounting data so the costs can readily be determined throughout Agreement period.
5. Records shall be maintained for three years after expiration of Agreement and for at least one year following any audit or final disposition of any disputed audit finding;
6. If the final disposition of any disputed audit finding is determined to be a disallowed cost that the Secretary of State has paid the County, the County shall return to the Secretary of State an amount equal to the disallowance.
7. County shall permit periodic site visits by the Secretary of State or the Secretary of State's designee or designees to determine if any HAVA funds are being used or have been used in compliance with Agreement and all applicable laws;
8. Upon request, county shall report to the Secretary of State at least once every 90 (ninety) days until all funds received have been expended, on the status of HAVA funds received, in a manner determined by the Secretary of State.

**EXHIBIT D**  
**(Standard Agreement)**

**B. GENERAL PROVISIONS**

1. The program is conditioned on State receiving reimbursement from the federal government pursuant to HAVA Section 101.
2. HAVA funds can only be used for the purposes for which the HAVA funds are made;
3. No portion of any HAVA funds shall be used for partisan political purposes. All contractors providing services are required to sign an agreement, please see Exhibit E Item 1, to abide by the Secretary of States' policy to refrain from engaging in political activities that call into question the impartiality of the Secretary of State's Office. County is to submit agreement signed by each employee of contractor's firm who worked for County pursuant to this Agreement with the County's first invoice.
4. The provisions of the federal *Hatch Act* shall apply to employees working for state and local entities receiving HAVA funds. The *Hatch Act* may be reviewed at [http://www.osc.gov/documents/hatchact/ha\\_sta.pdf](http://www.osc.gov/documents/hatchact/ha_sta.pdf);
5. Any interest earned by County on money received pursuant to this Agreement must be reported in writing to the Secretary of State within 30 days of expiration of this Agreement. All interest must be used by the County for the purposes of implementing activities allowable under this Agreement;
6. Failure by any eligible County to execute a contract within 90 days of the date on which this contract is made available shall constitute an express desire to forego funds;
7. Funds not claimed by County within 90 days of the end date of this contract, or any funds claimed by a county that are not approved for county use by the Secretary of State within 180 days of the end date of this contract, shall be reallocated and may only be used to meet Section 101 of HAVA;
8. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel Agreement with no liability occurring to the State, or offer an Agreement amendment to County to reflect any reduced amount;
9. Agreement is subject to any restrictions, limitations or conditions enacted or promulgated by the United States Government, or any agency thereof, that may affect the provisions, terms or funding of Agreement in any manner;
10. Pursuant to federal policy, Agreement may be terminated by the State with 30-day written notice to County;
11. County warrants by execution of Agreement, that no person or selling agency has been employed or retained to solicit or secure this contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by County for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this contract without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee;

**EXHIBIT D  
(Standard Agreement)**

12. Nothing contained in Agreement or otherwise, shall create any contractual relation between the State and any subcontractor or vendor, and no subcontractor shall relieve County of its responsibilities and obligations hereunder. County agrees to be as fully responsible to State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by County. County's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to County. As a result, State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor or vendor of County;
13. Pursuant to federal law, by signing this agreement or execution of this purchase order the Contractor certifies under the penalty of perjury that the contracting entity is not excluded or ineligible from federal assistance programs and thereby is not on the federal government's list of suspended or debarred entities.

Pursuant to federal law, as a component of the procurement process, the Contractor must review the federal government's list of debarred and suspended vendors and ensure no contract award is provided to a vendor on this list. This list may be viewed at [www.epls.gov](http://www.epls.gov)

14. Upon request, county agrees to provide the Secretary of State with a summary report on its activities under this agreement following each election for which funds are expended that includes: the method used to determine the need for funding an eligible activity, including the reliance on an advisory committee or advisory groups, surveys or any other methodology used to assess the need for the eligible activity; the activity performed and funded; the amount of funding expended; the category or categories of need being met; and any performance metric or assessment of the quality of the activity, including unsolicited public comment, advisory committee or advisory group comment, public comment solicited through surveys and on-site assessments conducted by the County, its agents or others.

**EXHIBIT E  
(Standard Agreement)**

**ADDITIONAL PROVISIONS**

**Secretary of State Policy Regarding Political Activity in the Workplace**

**SECRETARY OF STATE POLICY REGARDING POLITICAL ACTIVITY IN THE WORKPLACE**

The Secretary of State is the state's chief elections officer. It is, therefore, imperative that staff in the Secretary of State's Office, and those who contract with the Secretary of State's Office, refrain from engaging in any political activity that might call into question the office's impartiality with respect to handling election issues. Accordingly, the policy of the Secretary of State's Office with respect to political activity in the workplace, a copy of which will be given to every employee in the Secretary of State's office and incorporated as an attachment to contracts with the Secretary of State's Office, is as follows:

- 1) No employee of or contractor with the Secretary of State's Office shall engage in political campaign-related activities on state-compensated or federal-compensated time, except as required by official duties, such as answering inquiries from the public. In those cases where the contractor with the Secretary of State's Office is a county, the term "contractor" shall apply only to county elections office employees, county employees redirected to work temporarily for the county elections office, or any person, firm, company or business that provides reimbursable election-related services to a county elections office in furtherance of a contract. This prohibition shall not apply while an employee is on approved vacation or approved annual leave. This prohibition shall not apply to activities engaged in during the personal time of an employee.
- 2) No employee of or contractor with the Secretary of State's Office shall use any state property in connection with political campaign activities. It is strictly prohibited to schedule political campaign-related meetings or to conduct political campaign-related meetings in state office space, even if after normal working hours.
- 3) No employee of or contractor with the Secretary of State's Office shall use his or her official status with the Secretary of State's Office to influence political campaign-related activities or to confer support for or indicate opposition to a candidate or measure at any level of government.
- 4) No employee of or contractor with the Secretary of State's Office may be involved with political campaign-related telephone calls, letters, meetings or other political campaign-related activities on state-compensated or federal-compensated time. Requests by employees to switch to alternative work schedules, such as 4-10-40 or 9-8-80 work weeks, or to take vacation in order to accommodate political campaign-related activities or to attend political campaign functions, will be judged in the same manner and on the same basis as any other requests of this nature (i.e., existing needs of the office and discretion of the division chiefs).
- 5) The receipt or delivery of political campaign contributions or photocopies thereof on state property is strictly prohibited, as is the use of office time or state resources (e.g., intra-office mail or fax machines) to solicit or transmit political campaign contributions.
- 6) No employee of or contractor with the Secretary of State's Office may authorize any person to use his or her affiliation with the Secretary of State's Office in an attempt to suggest that the employee's or contractor's support or opposition to a nomination or an election for office or a ballot measure is of an "official," as distinguished from private, character.
- 7) No employee of or contractor with the Secretary of State's Office may display political campaign-related buttons, posters, or similar materials in areas visible to individuals who are in public areas of the Secretary of State's Office; nor may an employee of or contractor with the Secretary of State's Office display political campaign-related posters or other materials on windows facing out of the state office building.

**EXHIBIT E**  
**(Standard Agreement)**

- 8) No employee of or contractor with the Secretary of State's Office may use official authority or influence for the purpose of interfering with or attempting to affect the results of an election or a nomination for any public office.
- 9) No employee of or contractor with the Secretary of State's Office may directly or indirectly coerce or solicit contributions from subordinates in support of or in opposition to an election or nomination for office or a ballot measure.
- 10) An employee who is paid either partially or fully with federal funds, including the Help America Vote Act of 2002 (HAVA), is subject to the provisions of the federal Hatch Act, and is, therefore, prohibited from being a candidate for public office in a partisan election, as defined in the federal Hatch Act. However, any employee who is to be paid either partially or fully with funds pursuant to HAVA, shall first be consulted about the proposed funding and be informed about the prohibitions of the federal Hatch Act. The employee, whenever possible, shall be given the opportunity to engage in employment that does not involve HAVA funding.
- 11) Provisions limiting participation in political campaign-related activities as provided for in this policy statement shall be included in every contract with the Secretary of State's Office.

If you have questions concerning these restrictions, please refer them to the Secretary of State Office contact person listed on the contract in Exhibit A 'Scope of Work'.

# Exhibit G

STATE OF CALIFORNIA - SECRETARY OF STATE

## CONTRACTOR HAVA ACTIVITY REPORT

NAME		COMPANY NAME															Month/Year		HAVA Coordinator's Approval																						
Contract Number:		Location (Sacto/LA)																																							
<b>HAVA ACTIVITY HOURS</b>																				<b>PROGRAM TIME REPORTING</b>																					
	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	1	<b>DELIVERABLE NAME</b>	<b>ORG</b>	<b>HOURS</b>					
1																																			(Taken from proposal and contract)		0.0				
2																																					0.0				
3																																					0.0				
4																																					0.0				
5																																					0.0				
6																																					0.0				
7																																					0.0				
8																																					0.0				
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21																																					0.0				
22																																					0.0				
23																																					0.0				
24																																			<b>MONTHLY TOTAL</b>	0.0					
SIGNATURE OF CONTRACTOR																						DATE																			

Resolution No: 2006-33

RESOLUTION OF THE INYO COUNTY BOARD OF SUPERVISORS  
APPROVING INYO COUNTY ENTERING INTO A CONTRACT WITH THE STATE OF CALIFORNIA  
FOR ANY AND ALL FUNDS AVAILABLE TO INYO COUNTY PURSUANT TO THE FEDERAL HELP  
AMERICA VOTE ACT OF 2002

INYO COUNTY VOTING MODERNIZATION PROJECT

**WHEREAS**, the Federal Help America Vote Act (HAVA) authorizes federal funds to assist in complying with the requirements of the Help America Vote Act of 2002 (P.L. 107-252) ("HAVA") and,

**WHEREAS**, HAVA requires certain capabilities and functionality in order to comply with its provisions and,

**WHEREAS**, the Secretary of State may reimburse Inyo County for items or activities, including taxes, for specified purposes and/or specified purchases and,

**WHEREAS**, the State of California requires Inyo County to enter into and execute a State of California Standard Agreement prior to disbursement of any funds for purposes of the Help America Vote Act, and

**WHEREAS**, in the interest of time, it is deemed to be in the best interest of Inyo County to designate the Inyo County Elections Official as the person to negotiate, execute and submit all required documentation for the purposes of applying for the Grant Funding offered by the Help America Vote Act,

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of the County of Inyo, State of California:

1. Elects to participate in the HAVA Grant Program to the greatest extent possible; and
2. Approves the execution of an agreement (contract) between the County of Inyo and the Secretary of State's Office to receive HAVA grant funds; and
3. Authorizes the County Clerk as the County Elections Officer to enter into any and all proposed agreements (contract) with the Secretary of State's Office for such purpose; and
4. Appoints the County Clerk as the County's designee to execute and submit all documents including, but not limited to, State of California Standard Agreements (Contracts), and payment requests for reimbursement of HAVA authorized expenditures.



PASSED AND ADOPTED this 6th day of June, 2006, by the following vote:

AYES: Supervisors Arcularius, Cash, Williams, Bilyeu and Cervantes

NOES: -0-

ABSTAIN: -0-

ABSENT: -0-

  
\_\_\_\_\_  
Susan Cash, Chair  
Inyo County Board of Supervisors

ATTEST: Ron Juliff  
Clerk of the Board

By:   
Patricia Gunsolley  
Assistant Clerk of the Board





# County of Inyo



## County Administrator

### CONSENT - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Clint Quilter

**SUBJECT:** Amendment #14 to contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

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**RECOMMENDED ACTION:**

Request Board approve Amendment No. 14 to the contract between the County of Inyo and Allan D. Kotin & Associates of Los Angeles, CA, extending the term of the contract through June 30, 2020, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

Mr. Kotin and his firm, Allan D. Kotin & Associates (ADK&A), were retained by the County to advise and represent the County on two relatively complex real estate projects: (1) the Consolidated Office Building, for which your Board approved entering into a Build-to-Suit Lease Agreement with Wolverine/Inyo LLC in January 2019; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

The recommended amendment to the ADK&A contract will allow for Mr. Kotin's continued participation in the Mount Whitney Fish Hatchery project if and when it moves forward, and also provide consultation, if and as needed, as the Consolidated Office Building project gets off the ground. This current amendment extends the term of the contract to June 30, 2020. The contract "not to exceed" amount is not increasing at this time. If, however, more substantial consulting is necessary, additional and more detailed contract amendments may become necessary.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

Your Board approved the original contract with ADK&A in December 2011.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

Funding for this contract is provided through the CAO-Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265. Current funding was encumbered during the 2018-2019 Fiscal Year and was rolled into the Fiscal Year 2019-2020 Budget. There are no changes in the contract amount at this time. However, if necessary, the Kotin contract may come back to your Board at a future date with the request to increase the contract amount.

**ATTACHMENTS:**

1. Kotin Contract Amendment 14
2. Kotin Contract & Amendments 1-4, 6-13

**APPROVALS:**

Darcy Ellis	Created/Initiated - 9/10/2019
Marshall Rudolph	Approved - 9/10/2019
Amy Shepherd	Approved - 9/10/2019
Clint Quilter	Final Approval - 9/12/2019

**AMENDMENT NUMBER 14 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
ALLAN D. KOTIN & ASSOCIATES  
FOR THE PROVISION OF REAL ESTATE CONSULTING SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and

Allan D. Kotin & Associates, of Los Angeles, CA

(hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Real Estate Consulting Services dated December 20, 2011, on County of Inyo Standard Contract No. 156, for the term of November 1, 2011 to September 30, 2019 (extended by Amendment 13);

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

NOW THEREFORE, County and Contractor hereby amend such Agreement as follows:

Section 2, titled, "TERM," is amended to state the following:

"The term of this agreement shall be from November 1, 2011 to June 30, 2020, unless sooner terminated as provided below."

The effective date of this Amendment to the Agreement is October 1, 2019

All the other terms and conditions of the Agreement are unchanged and remain the same.

**AMENDMENT NUMBER 14 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
ALLAN D. KOTIN & ASSOCIATES**

**FOR THE PROVISION OF REAL ESTATE CONSULTING SERVICES**

IN WITNESS THEROF, THE PARTIES HERETO HAVE SET THEIR HANDS AND  
SEALS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_ .

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_

By: \_\_\_\_\_

Signature

Dated: \_\_\_\_\_

\_\_\_\_\_  
Type or Print

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Personnel Services

APPROVED AS TO RISK ASSESSMENT:

\_\_\_\_\_  
County Risk Manager

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 20<sup>th</sup> day of *December*, 2011 an order was duly made and entered as follows:

CAO-Gen./Kotin &  
Assoc. Contract

The County Administrator explained Mr. Kotin is a specialist in public private negotiations and that this contract will provide important services to the County on several public private partnerships that are being explored, i.e., the Mt. Whitney Fish Hatchery, the consolidated office building in Bishop, etc. Moved by Supervisor Arcularius and seconded by Supervisor Fortney to ratify and approve the Contract between the County of Inyo and Allan D. Kotin & Associates for the provision of real estate consulting services for the period of November 1, 2011 through June 30, 2012, in an amount not to exceed \$30,000; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained. Motion unanimously passed and adopted.

WITNESS my hand and the seal of said Board this 20<sup>th</sup>

Day of December 2011



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisors

By:

*Patricia Gunsolley*  
Patricia Gunsolley, Assistant

<i>Routing</i>	
CC	_____
Purchasing	_____
Personnel	_____
Auditor	_____
CAO <input checked="" type="checkbox"/>	_____
Other	_____
DATE: December 28, 2011	



# AGENDA REQUEST FORM

BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

11

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator

**FOR THE BOARD MEETING OF:** December 20, 2011

**SUBJECT:** Ratification and Approval of Contract Between the County of Inyo and Allan D. Kotin & Associates for the Provision of Real Estate Consulting Services

## DEPARTMENTAL RECOMMENDATION

Request your Board ratify and approve the Contract between the County of Inyo and Allan D. Kotin & Associates for the Provision of Real Estate Consulting Services for the period November 1, 2011, through June 30, 2012 in an amount not to exceed \$30,000 and authorize Chairperson to sign, contingent upon appropriate signatures being obtained.

## SUMMARY DISCUSSION

Allan D. Kotin and Associates (ADK&A) is a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County, through a letter of engagement signed by the County Administrator in an amount not to exceed \$10,000, to advise and represent the County on two potential and relatively complex real estate projects. These projects are the possible development of a Consolidated Office Building, for which the County has entered into an Exclusive Negotiation Agreement with Joseph Enterprises, and the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mt. Whitney Fish Hatchery.

Mr. Kotin assisted County staff in preparing recommendations to enter into exclusive negotiations with Joseph Enterprises (one of the two respondents to the County's Request For Proposals for the Consolidated Office Building Project) and drafted the resulting Exclusive Negotiation Agreement with Joseph Enterprises approved by your Board on September 6, 2011. Since that time, his services have been essential in representing the County in implementing the first phase of the exclusive negotiating agreement which entails negotiating key terms of the option, lease and land transaction documents for the project and summarizing these in a non-binding proposed term sheet which is to be submitted to your Board for consideration and (non-binding) approval prior to proceeding with negotiations.

Mr. Kotin also served as a key participant with County staff in the last round of meetings with the Department of Fish and Game and Sierra Nevada Conservancy in discussions regarding the disposition of the Mount Whitney Fish Hatchery. Mr. Kotin was able to suggest several paths forward which seemed well-received by State agency staff. Although the recent change in personnel for the Department of Fish and Game Director position has slowed these discussions considerably, if and when they resume, Mr. Kotin's participation will be valuable in suggesting and evaluating possible frameworks for the County's continued involvement.

In providing these services, Mr. Kotin has relied on and expended the budget provided through the letter of engagement and his continued ability to represent the County on these projects and, perhaps, other projects requires a contract for his services approved by your Board. The recommended agreement will provide for these services, as well as allow the County to call upon Mr. Kotin's expertise, if deemed desirable, to assist the County in evaluating and pursuing other partnerships such as, for example, multiple public agency support for the operation of the Tri-County Fair.

**ALTERNATIVES**

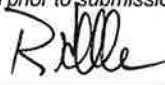
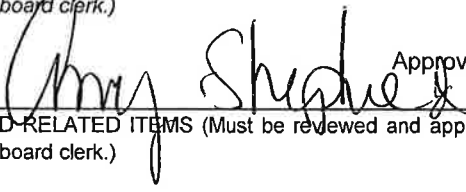
Your Board could choose not to approve the contract with ADK&A, however, this is not recommended. The County has entered into an Exclusive Negotiation Agreement for Construction and Leasing of an Inyo County Consolidated Office building with Joseph Enterprises. The Exclusive Negotiation Agreement was drafted almost entirely by Mr. Kotin and, subsequently, Mr. Kotin has been instrumental in representing the County in negotiating the non-binding proposed term sheet identified as the first phase of work in the Exclusive Negotiation Agreement. The ability to complete negotiation of a non-binding term sheet and, if the non-binding term sheet is approved by your Board, proceed with the design review process identified as the next phase of the Exclusive Negotiation Agreement, will be highly dependent on Mr. Kotin's skills and expertise in representation of the County. Similarly, his services will be valuable in assisting staff draft option, lease, and land transaction documents should your Board approve both the non-binding term sheet and non-binding concept plans. Mr. Kotin's services will be similarly valuable should County continue in discussions with State agencies and the Friends of Mt. Whitney Fish Hatchery regarding options for the long-term disposition of that facility.

**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations with Joseph Enterprises for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

\$30,000 in funding for this agreement is identified in the County's Fiscal Year 2011-2012 CAO Accumulated Capital Outlay budget approved by your Board.

<b>APPROVALS</b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: <input checked="" type="checkbox"/> Date <u>12-14-11</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: <input checked="" type="checkbox"/> Date <u>12-14-11</u>
PERSONNEL DIRECTOR: <i>n/a</i>	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**  (Not to be signed until all approvals are received) Date: 12-14-2011

1

AGREEMENT BETWEEN COUNTY OF INYO  
AND ALLAN D. KOTIN & ASSOCIATES  
FOR THE PROVISION OF Real Estate Consulting SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the Real Estate Consulting services of Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Consultant"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Consultant shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Consultant to perform under this Agreement will be made by Kevin D. Carunchio whose title is: County Administrative Officer. Requests to the Consultant for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Consultant by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Consultant the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Consultant at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. TERM.

The term of this Agreement shall be from November 1, 2011 to June 30, 2012 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay Consultant in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Consultant at the County's request.

B. Travel and per diem. County shall reimburse Consultant for the travel expenses and per diem which Consultant incurs in providing services and work requested by County under this Agreement. Consultant shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Consultant for approval to incur travel and per diem expenses shall be submitted to Kevin D. Carunchio, whose title is: County Administrative Officer. Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Consultant for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Consultant without the prior approval of the County.



C. No additional consideration. Except as expressly provided in this Agreement, Consultant shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Consultant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Consultant for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed Thirty thousand and no/100 (\$30,000)\*\*\*\*\* Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Consultant for services or work performed, including travel or per diem, which is in excess of the contract limit.

E. Billing and payment. Consultant shall submit to the County, once a month, an itemized statement of all hours spent by Consultant in performing services and work described in attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the hours were worked and describe the nature of the work which was performed on each day. Consultant's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Consultant during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Consultant on the last day of the month.

F. Federal and State taxes.

- (1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Consultant under the terms and conditions of this Agreement.
- (2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent Consultant s when it is anticipated that total annual payments to Consultant under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).
- (3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant County has no responsibility or liability for payment of Consultant's taxes or assessments.
- (4) The total amounts paid by County to Consultant, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Consultant shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9, attached hereto as Attachment D, upon executing this Agreement.

4. WORK SCHEDULE.

Consultant's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Consultant that the performance of these services and work will require a varied schedule. Consultant will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Consultant to provide the services and work described in attachment A must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Consultant at no expense to the County. Consultant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Consultant and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.epls.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Consultant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Consultant to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Consultant, for any expense or cost incurred by Consultant in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Consultant in providing and maintaining such items is the sole responsibility and obligation of Consultant.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Consultant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Consultant will use reasonable care to protect, safeguard and maintain such items while they are in Consultant's possession. Consultant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Consultant's negligence.

B. Products of Consultant's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or

are the result, product, or manifestation of, Consultant's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Consultant will convey possession and title to all such properties to County.

8. **INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment E and with the provisions specified in that attachment.

9. **STATUS OF CONSULTANT.**

All acts of Consultant, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent Consultant s, and not as agents, officers, or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Consultant. It is understood by both Consultant and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent Consultant:

A. Consultant shall determine the method, details, and means of performing the work and services to be provided by Consultant under this Agreement.

B. Consultant shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement.

C. Consultant, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent Consultant's, and not as employees of County.

10. **DEFENSE AND INDEMNIFICATION.**

Consultant shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees, or the failure of Contractor, or Contractor's agents, officers, or employees to comply with any of its obligations contained in this Agreement, and that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or its employees or agents in the performance of services under this contract. Consultant's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Consultant's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other cost which is caused in whole or in part by any negligence, recklessness or willful misconduct of the Consultant, its agents, employees, supplier, or of any one directly or indirectly employed by any of them, or anyone for whose negligence, recklessness or willful misconduct any of them may be liable.

Consultant's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Consultant, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

**11. RECORDS AND AUDIT.**

A. Records. Consultant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Consultant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Consultant may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Consultant, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Consultant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

**12. NONDISCRIMINATION.**

During the performance of this Agreement, Consultant, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Consultant and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Consultant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

**13. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Consultant thirty (30) days written notice of such intent to cancel. Consultant may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

**14. ASSIGNMENT.**

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience, and training of Consultant as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**15. DEFAULT.**

If the Consultant abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by

County, County may declare the Consultant in default and terminate this Agreement upon five (5) days written notice to Consultant. Upon such termination by default, County will pay to Consultant all amounts owing to Consultant for services and work satisfactorily performed to the date of termination.

**16. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-four (24) below.

**17. CONFIDENTIALITY.**

Consultant agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Consultant in the course of providing services and work under this Agreement shall be privileged, restricted, or confidential. Consultant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Consultant only with the express written consent of the County.

**18. CONFLICTS.**

Consultant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**19. POST AGREEMENT COVENANT.**

Consultant agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Consultant agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Consultant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**20. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**21. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Consultant of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-four (24) (Amendment).

**22. ATTORNEY'S FEES.**

If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

**23. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**24. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Consultant or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

<b>County of Inyo:</b>	
Administration	Name
P.O. Drawer N	Street
Independence, CA 93526	City and State

<b>Consultant :</b>	
Allan D. Kotin & Associates	Name
949 South Hope Street	Street
Los Angeles, CA 90015	City and State

**25. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

///

///

AGREEMENT BETWEEN COUNTY OF INYO  
AND ALLAN D. KOTIN & ASSOCIATES  
FOR THE PROVISION OF Real Estate Consulting SERVICES

20<sup>th</sup> IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
DAY OF December, 2011.

COUNTY OF INYO

By: [Signature]  
Dated: 12-20-11

CONSULTANT

By: [Signature]  
Signature  
ALLAN D. KOTIN  
Print or Type Name  
Dated: 12-15-11

APPROVED AS TO FORM AND LEGALITY:

[Signature]  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

[Signature]  
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO  
AND ALLAN D. KOTIN & ASSOCIATES  
FOR THE PROVISION OF Real Estate Consulting SERVICES

TERM:

FROM: November 1, 2011 TO: June 30, 2012

SCOPE OF WORK:

Allan D. Kotin and Associates (ADK&A, or Consultant) will provide real estate consulting services to the County of Inyo, under direction of the County Administrative Officer, related to the design and negotiation real estate transactions of a public-private, public-non-profit and, possibly, public-public nature. Projects for which the Consultant's services will be engaged include, but may not be limited to, completion of the proposed build-to-suit and lease transaction for a Consolidated County Office Building pursuant to the Exclusive Negotiation Agreement for Construction and Leasing of an Inyo County Consolidated Office building Between the County and Joseph Enterprises, and recommending and designing a possible transaction structure with the State of California and Friends of Mt. Whitney Fish Hatchery for the preservation and operation of the premises and buildings of the Mount Whitney Fish Hatchery. The Consultant's services that will be provided in support of both of these projects are more specifically described in the "Scope of Effort and Estimated Budgets for Completion of Inyo County Consolidated Office Build To Suit Transaction" and "Scope of Effort and Estimated Budgets for Design of a Possible Transaction Structure To Preserve the Fish Hatchery" prepared by ADK&A and incorporated as Exhibits A and B, respectively, to this Scope of Work.

The Consultant may also provide real estate consulting services of a similar nature to the County for other projects at the request of the County, and upon acceptance by the County of similar scopes of effort and estimated budgets prepared by the Consultant.





Allan D. Kotin & Associates  
 Real Estate Consulting for Public Private Joint Ventures  
 949 South Hope Street, Los Angeles, CA 90015

213.623.3841  
 Cell 213.369.3841  
 Fax 866.685.1377

[akotin@adkotin.com](mailto:akotin@adkotin.com)  
[www.adkotin.com](http://www.adkotin.com)

## Memorandum

TO: Kevin Carunchio, Inyo County Administrative Officer      DATE: September 23, 2011  
 CC: Randy Keller, County Counsel  
 FROM: Allan D. Kotin  
 RE: SCOPE OF EFFORT AND ESTIMATED BUDGETS FOR COMPLETION OF INYO COUNTY  
 CONSOLIDATED OFFICE BUILD TO SUIT TRANSACTION

At your request, Allan D. Kotin & Associates (ADK&A) has prepared a scope of work and estimated budget for the completion of the proposed build-to-suit and lease transaction for a Consolidated County Office Building in Bishop, California. This represents the completion of an effort in which ADK&A has and continues to provide support to County staff. It is manifest that the current budget allocation is insufficient to accommodate continuing ADK&A participation through the completion of the negotiation and documentation process.

ADK&A has identified two alternative approaches the County might want to consider for authorization of additional funds: a short-term limited authorization that would carry the process through the completion and approval of the term sheet to be followed by a subsequent larger authorization; or a full scope of work authorized in a single larger amount.

1. For approximately \$5,000 in addition to the remaining budget, which at this point is about \$2000, ADK&A should be able to complete the term sheet and assist in its presentation to the Board of Supervisors.
2. The total budget for completion of the full transaction including the term sheet is approximately \$16,000.

The calculations supporting both these estimates are shown on the schedule at the end of this memo.

Please be aware that the budgets provided assume a generally continuous process with no major interruptions or major changes in direction. Among the items that would significantly increase the budget and for which no allowance is made are:

- Carryover of scheduled BOS presentations requiring extra trips
- A redesign of the building so substantial as to require major re-bidding and a modification of the developer's financial proposal
- Introduction of any complex additional financial considerations, e.g. operational savings or alternative costs, into the ADK&A assignment.<sup>1</sup>

After you have had a chance to review this memo and the attached budget please feel free to call and discuss the options provided or any other options you would like to consider.

<sup>1</sup> ADK&A will of course provide comparison to space rents currently paid by the County



**Memorandum**

Re: **SCOPE OF EFFORT AND ESTIMATED BUDGETS FOR COMPLETION OF INYO COUNTY CONSOLIDATED OFFICE BUILD TO SUIT TRANSACTION**

COMPLETION OF INYO COUNTY CONSOLIDATED OFFICE BUILDING TRANSACTION ESTIMATED CONSULTING BUDGET FOR SERVICES OF ALLAN D. KOTIN & ASSOCIATES								
		Kotin @ \$225		AEK/BC \$120		FFB \$150		
TASK NO.	TASK DESCRIPTION	Hours	Amount	Hours	Amount	Hours	Amount	TOTAL
<b>TASK 1</b>	<b>COMPLETING THE TERM SHEET</b>							<b>\$4,100</b>
1.1	Exchanges with CRESA and drafting	10	\$2,250				\$0	\$2,250
1.2	Possible number revisions	0.5	\$113			2	\$300	\$413
1.3	Trip and appearance at ONE meeting of BOS	6	\$1,350				\$0	\$1,350
<b>TASK 2</b>	<b>LIMITED PARTICIPATION IN DESIGN AND COST PHASE</b>							<b>\$2,100</b>
2.1	Review submissions by space planner, needs assessment	3	\$675					\$675
2.2	Review revised/final design and costs	3	\$675					\$675
2.3	General communication	3	\$675					\$675
<b>TASK 3</b>	<b>ASSISTANCE/REVIEW IN FINAL DOCUMENTS</b>							<b>\$5,500</b>
3.1	Review and comment on sequential drafts	10	\$2,250					\$2,250
3.2	Allowance for re-doing the numbers with inevitable changes	2	\$450			3	\$450	\$900
3.3	Participate in conference calls	4	\$900					\$900
3.4	Trip and personal appearance at ONE negotiation meeting	6	\$1,350					\$1,350
<b>TASK 4</b>	<b>PRESENTATION OF ALTERNATIVE SCENARIOS</b>							<b>\$3,200</b>
4.1	Conf call to block out council presentation	2	\$450	0	\$0		\$0	\$450
4.2	Assist in preparation of BOS power point	2	\$450	4	\$450		\$0	\$930
4.3	Trip and appearance at ONE meeting of BOS	8	\$1,800		\$0		\$0	\$1,800
<b>CONTINGENCY ALLOWANCE FOR ADDITIONAL TASKS AT</b>		10%						<b>\$ 1,490</b>
<b>TOTALS</b>		<b>50.5</b>	<b>\$ 13,389</b>	<b>4</b>	<b>\$ 450</b>	<b>5</b>	<b>\$ 750</b>	<b>\$ 16,390</b>
AEK Andrew Kaplan		FFB Foth Backus						
BDD Barbara Bradfield								

EXHIBIT B



Allan D. Kotin & Associates  
Real Estate Consulting for Public Private Joint Ventures  
949 South Hope Street, Los Angeles, CA 90015

213.623.3841  
Cell 213.369.3841  
Fax 866.685.1377

akotin@adkotin.com  
www.adkotin.com

**Memorandum**

TO: Kevin Carunchio, Inyo County Administrative Officer      DATE: September 23, 2011  
CC: Randy Keller, County Counsel  
FROM: Allan D. Kotin  
RE: SCOPE OF EFFORT AND ESTIMATED BUDGETS FOR DESIGN OF A POSSIBLE TRANSACTION  
STRUCTURE TO PRESERVE THE FISH HATCHERY

---

At your request, Allan D. Kotin & Associates (ADK&A) has prepared a scope of work and estimated budget for a new consulting assignment which would involve the preservation and operation for non-hatchery uses of the premises and buildings of the Mount Whitney Fish Hatchery for which hatchery operations have been terminated by the California State Department of Fish and Game.

ADK&A would participate with County staff and other key stakeholders to explore the political and financial feasibility of alternative arrangements for the preservation and future non-state operation of the property, a stated goal of both Sierra Conservancy and the Friends of the Mt. Whitney Fish Hatchery.

Although I am not at all an expert in fish hatcheries, my visit to the property and my discussions with you suggest that the very attractive physical premises—with water features, attractive grounds and buildings with apparently significant remaining useful lives—offer opportunities for adaptive re-use as tourist facilities, conference center, etc.

The list of tasks and budget that I have prepared are explicitly general and preliminary. Only the first two tasks listed, reconnaissance and strategic assessment need be authorized initially.

The third task which involves creation of an implementation plan may not be relevant if the review of the initial scoping and strategic assessment suggests that there is no course of action with a real promise of being both politically and financially feasible.

I will of course be relying completely on you and other stakeholders to identify the elements of political approval and feasibility needed but I believe that combining that discussion with the financial analysis and presenting the entire situation as a set of structured alternatives should help determine the future for this somewhat precious asset to your community.

The budget on the following page requires approximately \$5,000 to complete the initial reconnaissance and strategic assessment.

The Task 3 budget for implementation planning should be considered only as illustrative at this point. What the scope will actually comprise cannot be determined prior to completion of Task 2.



Memorandum

Re: SCOPE OF EFFORT AND ESTIMATED BUDGETS FOR DESIGN OF A POSSIBLE TRANSACTION STRUCTURE TO PRESERVE THE FISH HATCHERY

Creating a Transaction Structure for Preservation of the Fish Hatchery								
ESTIMATED CONSULTING BUDGET FOR SERVICES OF ALLAN D. KOTIN & ASSOCIATES								
TASK NUMBER	TASK DESCRIPTION	KOTIN \$225		A.F.K./B \$120		FFB \$150		TOTAL
		Hours	Amount	Hours	Amount	Hours	Amount	
<b>TASK 1</b>	<b>INITIAL RECONNAISSANCE AND DATA REVIEW</b>							<b>\$3,000</b>
1.1	Review of documents and background in LA office	3	\$675				\$0	\$675
1.2	Telephone debriefing with client and other informed parties	2	\$450				\$0	\$450
1.3	Initial onsite kickoff meeting with stakeholders	8	\$1,800				\$0	\$1,800
<b>TASK 2</b>	<b>PREPARATION OF SCOPE AND INITIAL STRATEGIC ASSESSMENT</b>							<b>\$2,300</b>
2.1	Outline key issues and financial requirements	3	\$675					\$675
2.2	Prepare outline of alternative approaches to solution	3	\$675					\$675
2.3	Draft Strategic Assessment and Scope Document	4	\$900					\$900
<b>TASK 3</b>	<b>PRESENTATION AND INAUGURATION OF NEXT PHASE (OPTIONAL)</b>							<b>\$4,100</b>
3.1	Revise report and prepare power point summary	3	\$675	2	\$240			\$915
3.2	Meet with stakeholders to review findings and select options	8	\$1,800					\$1,800
3.3	Document meeting results, edit and expand strategic assessment to incorporate outline implementation plan	6	\$1,350					\$1,350
<b>SUBTOTAL</b>								<b>\$9,400</b>
CONTINGENCY ALLOWANCE FOR UNEXPECTED ADDITIONAL TASKS AT 10%								\$ 980
<b>TOTALS</b>		<b>40</b>	<b>\$ 9,000</b>	<b>2</b>	<b>\$ 240</b>	<b>0</b>	<b>\$ -</b>	<b>\$ 10,300</b>
AEK Andrew Kaplan BOB Barbara Bradford								

Note that while ADK&A does not charge travel expenses per se if no overnight stay is required, the client will be charged for one way driving time which is budgeted at four hours.

Note also that only one trip is provided for in Tasks 1 and 2. It may be that we can accommodate additional face to face contact with stakeholders as part of my other trips for the consolidated office project.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO  
AND ALLAN D. KOTIN & ASSOCIATES  
FOR THE PROVISION OF Real Estate Consulting SERVICES

TERM:

FROM: November 1, 2011 TO: June 30, 2012

SCHEDULE OF FEES:

Consultant's services will be paid based on the following rate schedule:

Allan Kotin	\$225 per hour
Andrew Kaplan	\$120 per hour
Faith Backus	\$150 per hour

For visits to a County-specified client site, the Consultant's time will be paid based on one half the travel time, estimated at 4 hours when traveling to Inyo County, in accordance with this rate schedule.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO  
AND ALLAN D. KOTIN & ASSOCIATES  
FOR THE PROVISION OF Real Estate Consulting SERVICES

TERM:

FROM: November 1, 2011 TO: June 30, 2012

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

For visits to a County-specified client site, the Consultant's time will be paid based on one half the travel time, estimated at 4 hours when traveling to Inyo County, in accordance with the rate schedule set forth in the Schedule of Fees (Attachment B).

Travel expenses will be paid based on actual cost.

Meals and incidental travel expenses incurred by the Consultant shall be reimbursed at the rate allowed under the prevailing Internal Revenue Service rules and regulations pursuant to the Inyo County Travel & Expense Reimbursement Policy.

ATTACHMENT D

AGREEMENT BETWEEN COUNTY OF INYO  
AND ALLAN D. KOTIN & ASSOCIATES  
FOR THE PROVISION OF Real Estate Consulting SERVICES

TERM:

FROM: November 1, 2011 TO: June 30, 2012

FORM W-9

Request for Taxpayer  
Identification Number and Certification  
(Please submit W-9 form with Contract, available on-line or by County)

**ATTACHMENT E**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND ALLAN D. KOTIN & ASSOCIATES  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

**TERM:**

**FROM: November 1, 2011 TO: June 30, 2012**

**SEE ATTACHED INSURANCE PROVISIONS**



**Specifications 2**  
**Insurance Requirements for Professional Services**

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

*(Not required if consultant provides written verification it has no employees)*

1. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Consultant's profession, with limit no less than **\$1,000,000** per occurrence or claim.

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

**Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

***Additional Insured Status***

**The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Consultant; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

### ***Primary Coverage***

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

### ***Notice of Cancellation***

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity.**

### ***Waiver of Subrogation***

Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

### ***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

### ***Verification of Coverage***

Consultant shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**Subcontractors**

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

***Special Risks or Circumstances***

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 12<sup>th</sup> day of *June*, 2012 an order was duly made and entered as follows:

CAO-Gen/Kotin &  
Associates Contract  
Amendment

Moved by Supervisor Cash and seconded by Supervisor Pucci to approve Amendment #1 to the Contract between the County of Inyo and Allan D. Kotin & Associates for public private partnership real estate consulting services, to (a) extend the term of the Contract one year to June 30, 2013, (b) increase the amount by \$30,000 for a total amount not to exceed \$60,000; and (c) amend Attachment B Schedule of Fees to include contractor/consultant work at a rate of no more than \$150 per hour, contingent upon the Board's adoption of a FY 2012-13 budget; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained. Motion carried unanimously with Supervisor Fortney absent.

WITNESS my hand and the seal of said Board this 12<sup>th</sup>

Day of June 2012



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisors

By:

*Patricia Gunsolley*  
Patricia Gunsolley, Assistant

<b>Routing</b>	
CC	_____
Purchasing	_____
Personnel	_____
Auditor	_____
CAO	<input checked="" type="checkbox"/> _____
Other	_____
DATE: June 20, 2012	



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

24

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator

**FOR THE BOARD MEETING OF:** June 12, 2012

**SUBJECT:** Amendment #1 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request Board approve Amendment #1 to the Contract between the County of Inyo and Allan D. Kotin & Associates to: a) extend the term of the contract to June 30, 2013; b) increase the limit upon amount payable by \$30,000 for a total contract amount not to exceed \$60,000; and c) amend Attachment B "Schedule of Fees" to include contractor/consultant work at a rate of no more than \$150/hr. , and authorize Chairperson to sign, contingent upon appropriate signatures being obtained and contingent upon approval of future budgets.

**SUMMARY DISCUSSION**

Allan D. Kotin and Associates (ADK&A) is a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County has entered into an Exclusive Negotiation Agreement with Joseph Enterprises; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

As your Board is aware, conversations between the California Department of Fish and Game and the Sierra Nevada Conservancy regarding the possible (interim) transfer of the Mount Whitney Fish Hatchery from the Department to the Conservancy have accelerated in recent months. A key factor in any transfer of the Hatchery proceeding to the Conservancy (or any other entity in which the County may have an interest in working with) will be a confidence among the parties – including the County and Friends of the Mount Whitney Fish Hatchery – in a realistic strategy for developing a long-term plan for this iconic property. Mr. Kotin's services will be valuable in recommending a framework for such a long-range plan, and critical recommending and evaluating a range of sustainable uses and partnerships that will be the bedrock of any long-range plan for the Hatchery. It is necessary to amend the contract to ensure ADK&A's ability and availability to participate in this process in an environment of quickening discussions and decisions.

It is also necessary to amend the contract to provide for Mr. Kotin's continued participation in the evaluation and negotiation of the Consolidated Office Building project. Mr. Kotin assisted County staff in preparing recommendations to enter into exclusive negotiations with Joseph Enterprises (one of the two respondents to the County's Request For Proposals for the Consolidated Office Building Project) and drafted the resulting Exclusive Negotiation Agreement with Joseph Enterprises approved by your Board on September 6, 2011. Since that time, his services have been essential in representing the County in implementing the first phase of the Exclusive Negotiating Agreement which entailed negotiating key terms of the option, lease and land transaction documents for the project and summarizing these in the non-binding proposed Term Sheet presented to and approved by your Board in March. The County and Developer are currently in the Design Review stage identified in Phase 1 – Part B of the Exclusive Negotiation Agreement and, as this process is completed, Mr. Kotin will be responsible for reconciling the refined

proposed building design with the non-binding Term Sheet as part of your Board's consideration of the non-binding Concept Plans for the project; including preparing and presenting a refined fiscal analysis. If your Board ultimately approves the revised non-binding Term Sheet and non-binding Concept Plans, ADK&A's services will again be critical as the County and Staff proceed to implement Phase 2 of the Exclusive Negotiation Agreement which will entail the preparation of Final Documents for the project transaction.

The recommended amendment to ADK&A contract will allow for Mr. Kotin's continued participation in both the Mount Whitney Fish Hatchery and Consolidated Office Building Projects.

**ALTERNATIVES**

Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery, or continue with its thorough analysis and negotiation of the Consolidated Office Building project.

**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations with Joseph Enterprises for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

\$30,000 in funding for this agreement is identified in the County's Fiscal Year 2011-2012 CAO Accumulated Capital Outlay budget approved by your Board.

<b>APPROVALS</b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: _____ Date <u>6-6-12</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: <input checked="" type="checkbox"/> Date <u>6/6/12</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> N/A Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)



Date: 06-06-2012

**AMENDMENT NUMBER 1 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting Services**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 to June 30, 2012.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to June 30, 2013 unless sooner terminated as provided below.

**3. CONSIDERATION.**

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed \$60,000.00\*\*\*\*\* Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

**AMENDMENT NUMBER 1 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

**ATTACHMENT B**

**TERM:**

**FROM:** November 1, 2011      **TO:** June 30, 2013

**SCHEDULE OF FEES:**

Consultant's services will be paid based on the following rate schedule:

Allan Kotin	\$225 per hour
Andrew Kaplan	\$120 per hour
Faith Backus	\$150 per hour
Other Contractor/Consultant	No more than \$150 per hour

For visits to a County-specified client site, the Consultant's time will be paid based on one half the travel time, estimated at 4 hours when traveling to Inyo County, in accordance with this rate schedule.

The effective date of this Amendment to the Agreement is \_\_\_\_\_.

All the other terms and conditions of the Agreement are unchanged and remain the same.



**AMENDMENT NUMBER 1 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND  
SEALS THIS 12<sup>th</sup> DAY OF June, 2012

COUNTY OF INYO

By: Marty Fournier

Dated: 7-17-12

CONTRACTOR

By: Allan D. Kotin  
Signature

ALLAN D. KOTIN  
Type or Print  
Dated: 6/27/2012

APPROVED AS TO FORM AND LEGALITY:

[Signature]  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]  
County Risk Manager

**AMENDMENT NUMBER 2 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting Services**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 to June 30, 2012.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to December 31, 2013 unless sooner terminated as provided below.

RECEIVED  
2013 JUL -9 PM 3:14  
INYO COUNTY  
AUDITOR-CONTROL UNIT

**AMENDMENT NUMBER 2 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND  
SEALS THIS 24 DAY OF June, 2013.  
<sub>6</sub>

COUNTY OF INYO

By: [Signature]

Dated: 06-28-2013

CONTRACTOR

By: [Signature]  
Signature

ALLAN D. KOTIN  
Type or Print

Dated: June 24, 2013

APPROVED AS TO FORM AND LEGALITY:

[Signature]  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]  
County Risk Manager

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 10th day of *December* 2013 an order was duly made and entered as follows:

CAO-General/Kotin & Associates Contract Amendment

Moved by Supervisor Griffiths and seconded by Supervisor Pucci to approve Amendment No. 3 to the Contract between the County of Inyo and Allan D. Kotin & Associates, extending the term of the Contract to June 30, 2014, increasing the amount of the Contract by \$10,000 to a total amount not to exceed \$70,000, amending the Schedule of Fees (Attachment B to the Contract) to update contractor/consultant staff whom continue to work at a Board approved rate of no more than \$150/hour; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 10<sup>th</sup>

Day of \_\_\_\_\_ **December** \_\_\_\_\_ **2013**



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisors

By:

*Patricia Gunsolley*  
Patricia Gunsolley, Assistant

<b>Routing</b>	
CC	_____
Purchasing	_____
Personnel	_____
Auditor	_____
CAO	X _____
Other	_____
DATE: December 19, 2013	



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

8

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator  
**By:** Kelley Williams, Assistant to the CAO

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Amendment #3 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request Board approve Amendment #3 to the Contract between the County of Inyo and Allan D. Kotin & Associates to: (a) extend the term of the contract to June 30, 2014; (b) increase total contract amount by \$10,000 for an amount not to exceed \$70,000; and, (c) amend Attachment B "Schedule of Fees" to update contractor/consultant staff whom continue to work at a Board approved rate of no more than \$150/hr. , and authorize Chairperson to sign, contingent upon appropriate signatures being obtained.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County has entered into an Exclusive Negotiation Agreement with Joseph Enterprises; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

On June 12, 2012 your Board approved Amendment #1 to the Contract with ADK&A, extending the contract term to June 30, 2013 and increasing the amount by \$30,000 to provide for ADK&A continued participation in the evaluation and negotiation of the Consolidated Office Building project. On June 26, 2013, the County Administrator exercised his authority to extend the contract with ADK&A for an additional 6 months, to December 31, 2013, while ADK&A assisted County staff in representing the County in completing the first phase of the Exclusive Negotiating Agreement. This process concluded with your Board granting non-binding approval of the Concept Plan and Updated Non-Binding Term Sheet on November 12, 2013. ADK&A's services will continue to be required as the County and Joseph Enterprises implement Phase 2 of the Exclusive Negotiation Agreement which will entail the preparation of Final Documents for the project transaction.

As your Board is aware, discussions between the California Department of Fish and Game and the Sierra Nevada Conservancy regarding the possible (interim) transfer of the Mount Whitney Fish Hatchery from the Department to the Conservancy are ongoing. A key factor in any transfer of the Hatchery proceeding to the Conservancy (or any other entity in which the County may have an interest in working with) will be a confidence among the parties – including the County and Friends of the Mount Whitney Fish Hatchery – in a realistic strategy for developing a long-term plan for this iconic property. Mr. Kotin's services are integral to recommending a framework for such a long-range plan, and critical recommending and evaluating a range of sustainable uses and partnerships that will be the bedrock of any long-range plan for the Hatchery. It is necessary to amend the contract to ensure ADK&A's ability and availability to participate in this process in an environment of likely quickening discussions and decisions.

The recommended amendment to ADK&A contract will allow for Mr. Kotin's continued participation in both the Mount Whitney Fish Hatchery and Consolidated Office Building Projects.

**ALTERNATIVES**


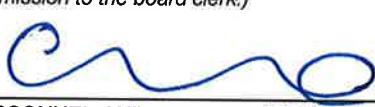
Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery, or continue with its thorough analysis and negotiation of the Consolidated Office Building project.

**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations with Joseph Enterprises for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

Funding for this agreement is identified in the Board approved Fiscal Year 2013-2014 CAO Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265.

<b><u>APPROVALS</u></b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: <input checked="" type="checkbox"/> Date <u>12/04/13</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <input checked="" type="checkbox"/> Date <u>12/4/2013</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**  
(Not to be signed until all approvals are received)



Date: 12/4/13

**AMENDMENT NUMBER 3 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 (Extended to December 31, 2013 by Amendment #2).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to June 30, 2014 unless sooner terminated as provided below.

**3. CONSIDERATION.**

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed \$70,000.00\*\*\*\*\* Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

**ATTACHMENT B**  
**AMENDMENT NUMBER 3 TO**  
**AGREEMENT BETWEEN THE COUNTY OF INYO AND**  
**Allan D. Kotin & Associates**  
**FOR THE PROVISION OF Real Estate Consulting SERVICES**

**SCHEDULE OF FEES:**

Consultant's services will be paid based on the following rate schedule:

Allan Kotin	\$225 per hour
Aaron Brumer	\$120 per hour
Faith Backus	\$150 per hour
Other	No more than \$150 per hour

For visits to a County-specified client site, the Consultant's time will be paid based on one half the travel time, estimated at 4 hours when traveling to Inyo County, in accordance with this rate schedule.



**AMENDMENT NUMBER 3 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND  
SEALS THIS 10<sup>th</sup> DAY OF December, 2013.

COUNTY OF INYO

By: Linda Arcularius

Dated: 12-10-13

CONTRACTOR

By: Allan D. Kotin  
Signature

ALLAN D. KOTIN  
Type or Print

Dated: 11-26-13

APPROVED AS TO FORM AND LEGALITY:

Margaret Kemp-Williams  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

M. Baker  
County Risk Manager

ORIGINAL

**AMENDMENT NUMBER 4 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 (Extended to June 30, 2014 by Amendment #3).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to June 30, 2015 unless sooner terminated as provided below.

The effective date of this Amendment to the Agreement is \_\_\_\_\_.

All the other terms and conditions of the Agreement are unchanged and remain the same.

**AMENDMENT NUMBER 4 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kofin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND  
SEALS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_.

COUNTY OF INYO

By: 

Dated: 06-27-2014


CONTRACTOR

By:   
Signature

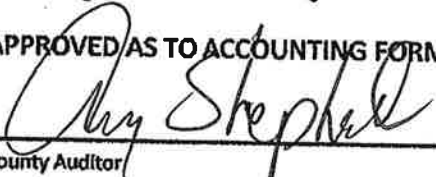
ALLAN D. KOFIN  
Type or Print

Dated: 6-26-2014

APPROVED AS TO FORM AND LEGALITY:

  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

  
County Risk Manager

***In the Rooms of the Board of Supervisors***

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 16<sup>th</sup> day of *December* 2014 an order was duly made and entered as follows:

CAO/Kotin Contract Moved by Supervisor Griffiths and seconded by Supervisor Tillemans to approve Amendment #6  
Amendment to the Contract between the County of Inyo and Allan D. Kotin & Associates to: (a) extend the term of the Contract to June 30, 2015; (b) increase total Contract amount by \$10,000 for an amount not to exceed \$80,000; and, authorize Chairperson to sign, contingent upon appropriate signatures being obtained. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 16<sup>th</sup>

Day of December 2014



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisors

By: Patricia Gunsolley  
Patricia Gunsolley, Assistant

<b>Routing</b>
CC _____
Purchasing _____
Personnel _____
Auditor _____
CAO X _____
Other _____
DATE: January 8, 2015



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

12

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

FROM: County Administrator  
By: Kelley Williams, Assistant to the CAO

FOR THE BOARD MEETING OF: December 16, 2014

SUBJECT: Amendment #6 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request Board approve Amendment #6 to the Contract between the County of Inyo and Allan D. Kotin & Associates to: (a) extend the term of the contract to June 30, 2015; (b) increase total contract amount by \$10,000 for an amount not to exceed \$80,000; and, and authorize Chairperson to sign, contingent upon appropriate signatures being obtained.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County has entered into an Exclusive Negotiation Agreement with Joseph Enterprises; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

ADK&A's contract was last amended by your Board on December 10, 2013, after your Board provided non-binding approval of the Concept Plan and Updated Non-Binding Term Sheet for the proposed Consolidated Office Building on November 12, 2013. This amendment extended the term of the contract to June 30, 2014, and increased the amount of the contract by \$10,000; from \$60,000 to \$70,000. Since that time, ADK&A has been immersed in working with staff and the developer to negotiate lease documents for the proposed project. This process became more prolonged and complex than originally anticipated, and the County Administrator exercised his authority to extend the contract with ADK&A for an additional 6 months, to December 31, 2014. In addition to assisting in lease negotiations, in recent months ADK&A has been asked to perform updated financial analyses of the proposed project in support of lease negotiations. These activities have resulted in needing to extend the term of the agreement, and add funding to the contract until the status of lease negotiations are updated in public in early 2015.

Additionally, as your Board is aware, discussions between the California Department of Fish and Wildlife regarding the possible transfer of the Mount Whitney Fish Hatchery from the Department to the Sierra Nevada Conservancy and then to the County are ongoing and heating up. A key factor in any transfer of the Hatchery proceeding to the Conservancy (or any other entity in which the County may have an interest in working with) will be a confidence among the parties – including the County and Friends of the Mount Whitney Fish Hatchery – in a realistic strategy for developing a long-term plan for this iconic property. ADK&A's services are and will be integral to recommending a framework for such a long-range plan, and critical recommending and evaluating a range of sustainable uses and partnerships that will be the bedrock of any long-range plan for the Hatchery. It is also necessary to amend the contract to ensure ADK&A's ability and availability to participate in this process in an environment of likely quickening discussions and decisions.

The recommended amendment to ADK&A contract will allow for Mr. Kotin's continued participation in both the Mount Whitney Fish Hatchery and Consolidated Office Building projects. Depending on the disposition of either of these projects, following updates to the Board in 2015, it may be necessary to make further amendments to the ADK&A contract.

**ALTERNATIVES**



Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery, or continue with its thorough analysis and negotiation of the Consolidated Office Building project.

**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations with Joseph Enterprises for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery, the Rural Desert Southwest Brownfields Coalition, U.S. EPA, and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

The additional \$10,000 in funding for this agreement is available in the Board approved Fiscal Year 2014-2015 CAO Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265.

<b>APPROVALS</b>	
<b>COUNTY COUNSEL:</b>	<b>AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)</b>  Approved: <input checked="" type="checkbox"/> Date <u>12/11/14</u>
<b>AUDITOR/CONTROLLER:</b>	<b>ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</b>  Approved: <u>yes</u> Date <u>12-11-14</u>
<b>PERSONNEL DIRECTOR:</b>	<b>PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</b> <u>NA</u> Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**  
(Not to be signed until all approvals are received)

 Date: 12-11-2014

**AMENDMENT NUMBER 6 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 (Reduced to December 31, 2014 by Amendment #5).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to June 30, 2015 unless sooner terminated as provided below.

**3. CONSIDERATION.**

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed \$80,000.00\*\*\*\*\* Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

**AMENDMENT NUMBER 6 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND  
SEALS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

COUNTY OF INYO

CONTRACTOR

By: \_\_\_\_\_

By: \_\_\_\_\_

Signature

Dated: \_\_\_\_\_

\_\_\_\_\_

Type or Print

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

\_\_\_\_\_  
County Risk Manager



# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 3<sup>rd</sup> day of *February, 2015* an order was duly made and entered as follows:

CAO-General/ Kotin Contract Amendment #7      Moved by Supervisor Griffiths and seconded by Supervisor Pucci to approve Amendment #7 to the Contract between the County of Inyo and Allan D. Kotin & Associates, to extend the term of the Contract to December 31, 2015 and to increase the amount of the Contract by \$15,000 to a total amount not to exceed \$95,000, contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained. Motion carried unanimously, with Supervisor Tillemans absent.

WITNESS my hand and the seal of said Board this 3<sup>rd</sup>

Day of February 2015



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisors

By:

*Patricia Gunsolley*  
Patricia Gunsolley, Assistant

<b>Routing</b>
CC _____
Purchasing _____
Personnel _____
Auditor _____
CAO <input checked="" type="checkbox"/> _____
Other _____
DATE: February 24, 2015



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

**7**

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator  
**By:** Kelley Williams, Assistant to the CAO

**FOR THE BOARD MEETING OF:** February 3, 2015

**SUBJECT:** Amendment #7 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request Board approve Amendment #7 to the Contract between the County of Inyo and Allan D. Kotin & Associates to: (a) extend the term of the contract to December 31, 2015; (b) increase total contract amount by \$15,000 for an amount not to exceed \$95,000; and, authorize Chairperson to sign, contingent upon Board adoption of future budgets and contingent upon appropriate signatures being obtained.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County has entered into an Exclusive Negotiation Agreement with Joseph Enterprises; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

ADK&A's contract was most recently amended by your Board with Amendment #6 on December 16, 2014 to extend the term of the contract to June 30, 2015 and increase the amount of the contract by \$10,000 from \$70,000 to \$80,000. This extension and increase in the ADK&A contract has allowed Mr. Kotin to continue to work with staff and the developer to work on lease documents for the proposed Consolidated Office Building project, assist in lease negotiations, and provide an updated financial analyses for the proposed project. The staff report and summary discussion which accompanied Amendment #6 notified your Board that continuance of these activities may result in the need to extend the term of the agreement once again as well as add funding to the contract until the lease negotiations are complete.

Also, as your Board is aware, discussions between the California Department of Fish and Wildlife regarding the possible transfer of the Mount Whitney Fish Hatchery from the Department to the Sierra Nevada Conservancy and then to the County are ongoing and heating up. A key factor in any transfer of the Hatchery proceeding to the Conservancy (or any other entity in which the County may have an interest in working with) will be a confidence among the parties – including the County and Friends of the Mount Whitney Fish Hatchery – in a realistic strategy for developing a long-term plan for this iconic property. ADK&A's services are and will be integral to recommending a framework for such a long-range plan, and critical recommending and evaluating a range of sustainable uses and partnerships that will be the bedrock of any long-range plan for the Hatchery. It is also necessary to amend the contract to ensure ADK&A's ability and availability to participate in this process in an environment of likely quickening discussions and decisions.

The recommended amendment to ADK&A contract will allow for Mr. Kotin's continued participation in both the Mount Whitney Fish Hatchery and Consolidated Office Building projects.

**ALTERNATIVES**


Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery, or continue with its thorough analysis and negotiation of the Consolidated Office Building project.

**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations with Joseph Enterprises for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery, the Rural Desert Southwest Brownfields Coalition, U.S. EPA, and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

The additional \$15,000 in Funding for this agreement is available in the Board approved Fiscal Year 2014-2015 CAO Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265.

<b><u>APPROVALS</u></b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>   Approved: <u>yes</u> Date <u>1/29/2015</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**  (Not to be signed until all approvals are received) Date: 1/29/15

**AMENDMENT NUMBER 7 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 (to June 30, 2015 by Amendment #6).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to December 31, 2015 unless sooner terminated as provided below.

**3. CONSIDERATION.**

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed \$95,000.00\*\*\*\*\* Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

**AMENDMENT NUMBER 7 TO**  
**AGREEMENT BETWEEN THE COUNTY OF INYO AND**  
**Allan D. Kotin & Associates**  
**FOR THE PROVISION OF Real Estate Consulting SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND  
SEALS THIS 3rd DAY OF February, 2015.

COUNTY OF INYO

By: 

Dated: 2-3-15

CONTRACTOR

By:   
Signature


ALLAN D. KOTIN  
Type or Print

Dated: Jan 29, 2014

APPROVED AS TO FORM AND LEGALITY:

  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

  
County Risk Manager

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 8<sup>th</sup> day of *December, 2015* an order was duly made and entered as follows:

CAO-General/  
Kotin Contract  
Amendment #8

Moved by Supervisor Griffiths and seconded by Supervisor Pucci to approve Amendment #8 to the Contract between the County of Inyo and Allan D. Kotin & Associates to extend the term of the Contract to June 30, 2016; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 8<sup>th</sup>

Day of December 2015



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisors

By:

*Patricia Gunsolley*  
Patricia Gunsolley, Assistant

<b>Routing</b>
CC _____
Purchasing _____
Personnel _____
Auditor _____
CAO <u>CAO</u> _____
Other _____
DATE: December 21, 2015



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

10

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator

**FOR THE BOARD MEETING OF:** December 8, 2015

**SUBJECT:** Amendment #8 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request Board approve Amendment #8 to the Contract between the County of Inyo and Allan D. Kotin & Associates to extend the term of the contract to June 30, 2016 and authorize Chairperson to sign, contingent upon appropriate signatures being obtained.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County has entered into an Exclusive Negotiation Agreement with Joseph Enterprises; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

The recommended amendment to ADK&A contract will allow for Mr. Kotin's continued participation in both the Mount Whitney Fish Hatchery and Consolidated Office Building projects if and when those projects move forward.

**ALTERNATIVES**

Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery, or continue with its thorough analysis and negotiation of the Consolidated Office Building project.

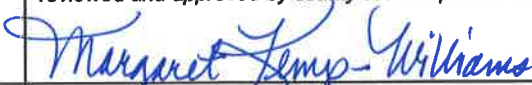
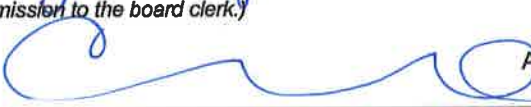
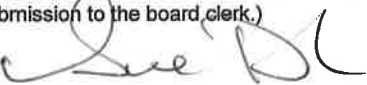
**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations with Joseph Enterprises for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery, the Rural Desert Southwest Brownfields Coalition, U.S. EPA, and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

The Funding for this agreement was included in the Board approved Fiscal Year 2015-2016 CAO Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: <input checked="" type="checkbox"/> Date <u>11/18/15</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>11/19/2015</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <input checked="" type="checkbox"/> Date <u>11/17/15</u>

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)

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



124111

**AMENDMENT NUMBER 8 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 (Extended to December 31, 2015 by Amendment #7).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to June 30, 2016 unless sooner terminated as provided below.

The effective date of this Amendment to the Agreement is \_\_\_\_\_.

All the other terms and conditions of the Agreement are unchanged and remain the same.

**AMENDMENT NUMBER 8 TO**  
**AGREEMENT BETWEEN THE COUNTY OF INYO AND**  
**Allan D. Kotin & Associates**  
**FOR THE PROVISION OF Real Estate Consulting SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS 8<sup>th</sup> DAY OF December, 2015.

COUNTY OF INYO

By: 

Dated: 12-8-15

CONTRACTOR

By: 

Signature

ALLAN D. KOTIN

Type or Print

Dated: 11-4-2015

APPROVED AS TO FORM AND LEGALITY:




County Counsel

APPROVED AS TO ACCOUNTING FORM:



County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:



Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:



County Risk Manager

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 17<sup>th</sup> day of *May* 2016 an order was duly made and entered as follows:

CAO  
KOTIN REAL ESTATE  
CONSULTING  
CONTRACT  
AMENDMENT #9

Moved by Supervisor Totheroh and seconded by Supervisor Kingsley to approve Amendment #9 to the Contract between the County of Inyo and Allan D. Kotin & Associates-Real Estate Consulting Services, extending the term of the contract to December 31, 2016, and authorize the Chairperson to sign. Motion carried unanimously with Supervisor Pucci absent.

<i>Routing</i>
CC Purchasing Personnel Auditor CAO ACO Other : DATE: May 24, 2016

WITNESS my hand and the seal of said Board this 17<sup>th</sup>

Day of May, 2016



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisors

A handwritten signature in black ink, appearing to read "Kevin D. Carunchio".

By: \_\_\_\_\_



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only: <b>AGENDA NUMBER</b>  11
---

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator

**FOR THE BOARD MEETING OF:** May 17, 2016

**SUBJECT:** Amendment #9 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request Board approve Amendment #9 to the Contract between the County of Inyo and Allan D. Kotin & Associates to extend the term of the contract to December 31, 2016 and authorize Chairperson to sign.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County has entered into an Exclusive Negotiation Agreement with Joseph Enterprises; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

The recommended amendment to ADK&A contract will allow for Mr. Kotin's continued participation in both the Mount Whitney Fish Hatchery and Consolidated Office Building projects if and when those projects move forward.

**ALTERNATIVES**

Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery, or continue with its thorough analysis and negotiation of the Consolidated Office Building project.

**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations with Joseph Enterprises for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery, the Rural Desert Southwest Brownfields Coalition, U.S. EPA, and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

The Funding for this agreement is included in the Board approved Fiscal Year 2015-2016 CAO Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265, and will roll-over into the Fiscal Year 2016-2017 CAO Accumulated Capital Outlay Budget.

<b>APPROVALS</b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>4/27/16</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>4/27/16</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <u>J</u> Date <u>5/2/16</u>

**DEPARTMENT HEAD SIGNATURE:**   
(Not to be signed until all approvals are received) \_\_\_\_\_ Date: 05-09-16

**AMENDMENT NUMBER 9 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 to June 30, 2016 (Extended in length with Amendment #8).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to December 31, 2016 unless sooner terminated as provided below.

The effective date of this Amendment to the Agreement is \_\_\_\_\_.

All the other terms and conditions of the Agreement are unchanged and remain the same.

**AMENDMENT NUMBER 9 TO**  
**AGREEMENT BETWEEN THE COUNTY OF INYO AND**  
**Allan D. Kotin & Associates**  
**FOR THE PROVISION OF Real Estate Consulting SERVICES**

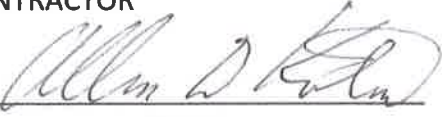
IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

COUNTY OF INYO

By:  \_\_\_\_\_

Dated: 5-17-16 \_\_\_\_\_

CONTRACTOR

By:  \_\_\_\_\_

Signature

ALLAN D. KOTIN \_\_\_\_\_

Type or Print

Dated: 3-29-16 \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

 \_\_\_\_\_

County Counsel

APPROVED AS TO ACCOUNTING FORM:

 \_\_\_\_\_

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

 \_\_\_\_\_

Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

 \_\_\_\_\_

County Risk Manager

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 6<sup>th</sup> day of December 2016 an order was duly made and entered as follows:

CAO – ALLAN  
D. KOTIN &  
ASSOC.  
AMENDMENT  
10

Moved by Supervisor Kingsley and seconded by Supervisor Pucci to approve Amendment No. 10 to the contract between Allan D. Kotin & Associates and the County of Inyo, extending the term of the contract an additional 18 months to June 30, 2018, and authorize the Chairperson to sign contingent upon appropriate signatures being obtained and the Board's adoption of future budgets. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 6<sup>th</sup>

Day of December, 2016



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisors

A handwritten signature in black ink, appearing to read "Kevin D. Carunchio".

By: \_\_\_\_\_

<i>Routing</i>
CC Purchasing Personnel Auditor CAO X Other: DATE: December 19, 2016





**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

11

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator

**FOR THE BOARD MEETING OF:** December 6, 2016

**SUBJECT:** Amendment #10 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request your Board approve Amendment #10 to the contract between Allan D. Kotin & Associates and the County of Inyo, extending the term of the contract an additional 18 months to June 30, 2018, and authorize the Chairperson to sign contingent upon appropriate signatures being obtained and Board's adoption of future budgets.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County has entered into an Exclusive Negotiation Agreement with Joseph Enterprises; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

The recommended amendment to ADK&A contract will allow for Mr. Kotin's continued participation in both the Mount Whitney Fish Hatchery and Consolidated Office Building projects if and when those projects move forward. This current amendment is not requesting any contract increase at this time. If, however, more substantial consulting is necessary, additional and more detailed contract amendments may become necessary.

**ALTERNATIVES**



Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery, or continue with its thorough analysis and negotiation of the Consolidated Office Building project.

**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations with Joseph Enterprises for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery, the Rural Desert Southwest Brownfields Coalition, U.S. EPA, and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

Funding for this contract is provided through the CAO-Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265, and is included in the Board approved Fiscal Year 2016-2017 Budget. There are no changes in the contract amount at this time. However, if necessary, the Kotin contract may come back to your Board at a future date with the request to increase the contract amount.

<b><u>APPROVALS</u></b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: <u>yes</u> Date <u>12/1/16</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: <u>11/30/2016</u> Date <u>egs</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**  Date: 11-22-2016  
(Not to be signed until all approvals are received)

**AMENDMENT NUMBER 10 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 to December 31, 2016 (Extended in length with Amendment #9).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to June 30, 2018 unless sooner terminated as provided below.

The effective date of this Amendment to the Agreement is December 13, 2016.

All the other terms and conditions of the Agreement are unchanged and remain the same.

**AMENDMENT NUMBER 10 TO**  
**AGREEMENT BETWEEN THE COUNTY OF INYO AND**  
**Allan D. Kotin & Associates**  
**FOR THE PROVISION OF Real Estate Consulting SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS 13<sup>th</sup> DAY OF December, 2016.

COUNTY OF INYO

By: [Signature]

Dated: 12-13-16

CONTRACTOR

By: [Signature]  
Signature

ALLAN D. KOTIN  
Type or Print

Dated: 11-9-16

APPROVED AS TO FORM AND LEGALITY:

[Signature]  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]  
County Risk Manager

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 19<sup>th</sup> day of September 2017 an order was duly made and entered as follows:

CAO – ALLAN D.  
KOTIN & ASSOC.  
AMENDMENT 11

Moved by Supervisor Pucci and seconded by Supervisor Kingsley to approve Amendment No. 11 to the contract between Allan D. Kotin & Associates and the County of Inyo, revising the contract schedule of fees, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained. Motion carried unanimously.

<i>Routing</i>
CC Purchasing Personnel Auditor CAO X Other: DATE: October 16, 2017

WITNESS my hand and the seal of said Board this 19<sup>th</sup>

Day of September, 2017



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisor

A handwritten signature in black ink, appearing to read "Kevin D. Carunchio".

By: \_\_\_\_\_



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

**11**

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator

**FOR THE BOARD MEETING OF:** September 19, 2017

**SUBJECT:** Amendment #11 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request your Board approve Amendment #11 to the contract between Allan D. Kotin & Associates and the County of Inyo, revising the contract schedule of fees, and authorize the Chairperson to sign contingent upon appropriate signatures being obtained.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County is in the midst of lease negotiations with Inyo Development LLC; and, (2) the possible evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Wildlife and Friends of Mount Whitney Fish Hatchery.

The recommended amendment to the ADK&A contract simply updates his firm's fee schedule and will allow for Mr. Kotin's continued participation in both the Mount Whitney Fish Hatchery and Consolidated Office Building projects, if and when, those projects move forward. This current amendment is updating the subcontractor information and is also adjusting Mr. Kotin's hourly rate from \$225 to \$250. The contract "not to exceed" amount is not increasing at this time. If more substantial consulting services are necessary, an additional contract amendment will be presented for consideration by your Board as needed.

**ALTERNATIVES**

Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery, or continue with its thorough analysis and negotiation of the Consolidated Office Building project.

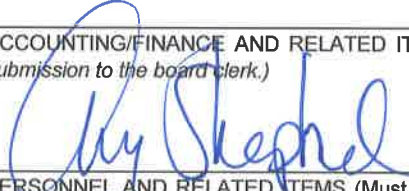
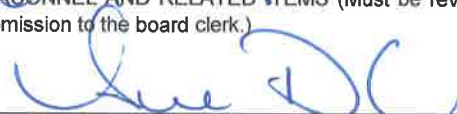
**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery could involve County staff and Mr. Kotin working with the State Department of Fish and Wildlife and Friends of Mt. Whitney Fish Hatchery, the Rural Desert Southwest Brownfields Coalition, U.S. EPA, and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

Funding for this contract is provided through the CAO-Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265, and is included in the Board approved Fiscal Year 2017-2018 Budget. There are no changes in the contract amount at this time. However, if necessary, the Kotin contract may come back to your Board at a future date with the request to increase the contract amount.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)   Approved: <u>yes</u> Date <u>9/14/17</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)   Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)



Date: 09-13-2017

**AMENDMENT NUMBER 11 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 to June 30, 2018 (Extended in length with Amendment #10).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**ATTACHMENT B**

**SCHEDULE OF FEES:**

Consultant's services will be paid based on the following rate schedule:

Allan Kotin	\$250 per hour
Faith Backus	\$175 per hour
Sue Sturmer	\$125 Per hour

For visits to a County-specified client site, the Consultant's time will be paid based on one half the travel time, estimated at 4 hours when traveling to Inyo County, in accordance with this rate schedule.

The effective date of this Amendment to the Agreement is \_\_\_\_\_.

All the other terms and conditions of the Agreement are unchanged and remain the same.



**AMENDMENT NUMBER 11 TO**  
**AGREEMENT BETWEEN THE COUNTY OF INYO AND**  
**Allan D. Kotin & Associates**  
**FOR THE PROVISION OF Real Estate Consulting SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS 6th DAY OF October, 2017.

COUNTY OF INYO

By: Mark Tull

Dated: 10-06-2017

CONTRACTOR

By: Allan D. Kotin  
Signature

ALLAN D. KOTIN  
Type or Print

Dated: Sept 14, 2017

APPROVED AS TO FORM AND LEGALITY:

[Signature]  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]  
County Risk Manager

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 26<sup>th</sup> day of June 2018 an order was duly made and entered as follows:

*CAO – Allan D. Kotin & Associates Contract Amendment 12* Moved by Supervisor Griffiths and seconded by Supervisor Pucci to approve Amendment No. 12 to the contract between Allan D. Kotin & Associates and the County of Inyo, extending the term of the contract to June 30, 2019 and increasing the contract amount by \$20,000 and authorize the Chairperson to sign contingent upon appropriate signatures being obtained. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 26<sup>th</sup>  
Day of June, 2018



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisor

*[Handwritten Signature]*  
By: \_\_\_\_\_

<b>Routing</b>
CC Purchasing Personnel Auditor CAO X Other: DATE: June 26, 2018



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only: <b>AGENDA NUMBER</b>  12
---

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator

**FOR THE BOARD MEETING OF:** June 26, 2018

**SUBJECT:** Amendment #12 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request your Board approve Amendment #12 to the contract between Allan D. Kotin & Associates and the County of Inyo, extending the term of the contract to June 30, 2019 and increasing the contract amount by \$20,000 and authorize the Chairperson to sign contingent upon appropriate signatures being obtained.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County is in the midst of lease negotiations with Inyo Development LLC; and, (2) the possible evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Wildlife and Friends of Mount Whitney Fish Hatchery.

The recommended amendment to the ADK&A contract updates his firm's fee schedule and will allow for Mr. Kotin's continued participation in Consolidated Office Building project as it reaches a decision point for your Board, as well as the possibility of engaging on the Fish Hatchery Project if those projects move forward. This current amendment is updating the subcontractor information and is also adjusting Mr. Kotin's hourly rate from \$225 to \$250.

**ALTERNATIVES**

Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in and receive guidance final negotiations and consideration of a lease for the Consolidated Office Building project.

**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery could involve County staff and Mr. Kotin working with the State Department of Fish and Wildlife and Friends of Mt. Whitney Fish Hatchery, the Rural Desert Southwest Brownfields Coalition, U.S. EPA, and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

Funding for this contract is provided through the CAO-Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265, and is included in the Fiscal Year 2018-2019 Preliminary Budget.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>6/19/18</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>[Signature]</u> Date <u>6-19-18</u>
PERSONNEL DIRECTOR: <u>n/a</u>	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**  
(Not to be signed until all approvals are received)

[Signature] Date: 06-19-2018

**AMENDMENT NUMBER 12 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF REAL ESTATE CONSULTING SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Consultant"), have entered into an Agreement for the provision of Real Estate Consulting Services, dated December 20, 2011 for the term from November 1, 2011 to June 30, 2018 (extended with Amendment #10).

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, the parties desire to amend such Agreement to extend the term of the contract and increase the contract limit.

NOW, THEREFORE, County and Consultant hereby amend such Agreement as set forth below:

1. Section 2 of the Agreement entitled "TERM" is amended to read as follows:

"The term of this Agreement shall be from November 1, 2011 to June 30, 2019 unless sooner terminated as provided below."

2. Section 3(D) of the Agreement (entitled "Limit Upon Amount Payable Under Agreement") is amended to read as follows:

"D. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Consultant for services and work performed under this Agreement, including incidental expenses, if any, shall not exceed \$115,000 (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Consultant for services or work performed, including incidental expenses, which is in excess of the contract limit."

The effective date of this Amendment to the Agreement is June 26, 2018

All the other terms and conditions of the Agreement not amended remain in full force and effect.

\\\\\\ NOTHING FOLLOWS \\\\

**AMENDMENT NUMBER 12 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF REAL ESTATE CONSULTING SERVICES**

26th IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
DAY OF June, 2018.

**COUNTY OF INYO**

By: [Signature]

Dated: 06-26-2018

**CONTRACTOR**

By: [Signature]

Signature  
Allan D. Kotin  
Type or Print

APPROVED AS TO FORM AND LEGALITY:

[Signature]  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]  
County Risk Manager

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 18<sup>th</sup> day of June 2019 an order was duly made and entered as follows:

CAO – Allan D.  
Kotin &  
Associates  
Amendment No.  
13


Moved by Supervisor Tillemans and seconded by Supervisor Griffiths to approve Amendment No. 13 to the contract between Allan D. Kotin & Associates and the County of Inyo, extending the term of the contract to the period of July 1, 2019 through September 30, 2019, contingent upon the Board's adoption of the Fiscal Year 2019-2020 Budget, and authorize the Chairperson to sign. Motion carried unanimously 4-0, with Supervisor Kingsley absent.

<b>Routing</b>
CC Purchasing Personnel Auditor CAO X Other: DATE: June 20, 2019

WITNESS my hand and the seal of said Board this 18<sup>th</sup>  
Day of June, 2019



CLINT G. QUILTER  
Clerk of the Board of Supervisors

By: 



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only: <b>AGENDA NUMBER</b>
9

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator

**FOR THE BOARD MEETING OF:** June 18, 2019

**SUBJECT:** Amendment #13 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request your Board approve Amendment No. 13 to the contract between Allan D. Kotin & Associates and the County of Inyo, extending the term of the contract to the period of July 1, 2019 through September 30, 2019, contingent upon the Board's adoption of the Fiscal Year 2019-2020 Budget, and authorize the Chairperson to sign contingent upon all appropriate signatures being obtained.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm were retained by the County to advise and represent the County on two relatively complex real estate projects: (1) the Consolidated Office Building, for which your Board approved entering into a Build-to-Suit Lease Agreement with Wolverine/Inyo LLC in January; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

The recommended amendment to the ADK&A contract will allow for Mr. Kotin's continued participation in the Mount Whitney Fish Hatchery project if and when it moves forward, and also provide consultation, if and as needed, as the Consolidated Office Building project gets off the ground. This current amendment extends the term of the contract to September 30, 2019. The contract "not to exceed" amount is not increasing at this time. If, however, more substantial consulting is necessary, additional and more detailed contract amendments may become necessary.

**ALTERNATIVES**

Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery.

**OTHER AGENCY INVOLVEMENT**



Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery, the Rural Desert Southwest Brownfields Coalition, U.S. EPA, and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**



Funding for this contract is provided through the CAO-Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265, and was included in the Board approved Fiscal Year 2018-2019 Budget, encumbered at that time and will be rolled into the Fiscal Year 2019-2020 Budget. There are no changes in the contract amount at this time. However, if necessary, the Kotin contract may come back to your Board at a future date with the request to increase the contract amount.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>   Approved: <u>yes</u> Date <u>5/24/19</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>   Approved: <u>yes</u> Date <u>5/28/19</u>
PERSONNEL DIRECTOR:  N/A	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**  Date: 06-13-19  
 (Not to be signed until all approvals are received)

**AMENDMENT NUMBER 13 TO**  
**AGREEMENT BETWEEN THE COUNTY OF INYO AND**  
**ALLAN D. KOTIN & ASSOCIATES**  
**FOR THE PROVISION OF REAL ESTATE CONSULTING SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and

Allan D. Kotin & Associates, of Los Angeles, CA

(hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of (Blank) Services dated December 20, 2011, on County of Inyo Standard Contract No. 156, for the term of November 1, 2011 to June 30, 2019 (extended by Amendment 12);

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

NOW THEREFORE, County and Contractor hereby amend such Agreement as follows:

Section 2, titled, "TERM," is amended to state the following:

"The term of this agreement shall be from November 1, 2011 to September 30, 2019, unless sooner terminated as provided below."


The effective date of this Amendment to the Agreement is

July 1, 2019


All the other terms and conditions of the Agreement are unchanged and remain the same.

**AMENDMENT NUMBER 13 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
ALLAN D. KOTIN & ASSOCIATES  
FOR THE PROVISION OF REAL ESTATE CONSULTING SERVICES**  
IN WITNESS THEROF, THE PARTIES HERETO HAVE SET THEIR HANDS AND  
SEALS THIS 18th DAY OF June, 2019.

**COUNTY OF INYO**

By:   
Dated: 6-18-19

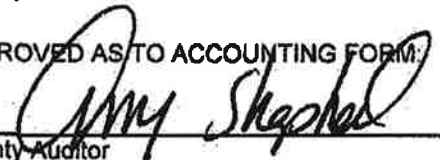
**CONTRACTOR**

By:   
Signature  
ALLAN D. KOTIN  
Type or Print  
Dated: May 29, 2019

APPROVED AS TO FORM AND LEGALITY:

  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

  
Personnel Services

APPROVED AS TO RISK ASSESSMENT:

  
County Risk Manager



# County of Inyo



## County Administrator - Information Services

### CONSENT - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Scott Armstrong

**SUBJECT:**

---

**RECOMMENDED ACTION:**

Request Board approve and award the contract for Information Technology Improvement Services to Info-Tech Research Group of Las Vegas, NV in an amount not to exceed \$24,120.90 for the period of October 1, 2019 through September 30, 2021, billed at \$12,060.45 annually, authorize payment for the first year's invoice, and authorize the Chairperson to sign.

**SUMMARY/JUSTIFICATION:**

Information Services (IS), a department of 11 people, is responsible for the purchase, implementation, installation, configuration and support of all County information technology infrastructure, equipment, systems, software applications and services. IS also provides end-user support for the more than 450 employees at more than 40 locations throughout the County. We manage and support approximately 500 computer workstations, nearly 80 servers, more than 30 network switches, 20 point-to-point network links, nearly two dozen full-time VPN connections, approximately 50 networked copiers, more than 200 networked printers, and all County-owned desk phones and cell phones.

With responsibilities this broad, it is important for IS to continually look for opportunities to improve the delivery of our services and streamline our operational processes. Info-Tech Research Group is an established IT consulting organization that will work with IS toward strategic, continuous improvement so that our team can provide better services and support for the County. Info-Tech will also assist IS in developing necessary IT-related policies, and will provide contemporary IT operations training. Additional services as part of this agreement include technical advisory services, and an evaluation of the IS Director's performance and effectiveness based on input from other Inyo County Department Heads, followed by a measurable performance improvement plan. This agreement will engage the entire IS department, and we are expecting to realize time savings in our daily operations as well as improved service delivery.

Respondents to the IT Improvement Services RFP:

- Client First Technology, \$88,737
- Empire Consultants, \$32,500
- Info-Tech Research Group, \$24,120

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your board could choose to not approve and award this contract to Info-Tech Research Group, but this is not recommended, as this engagement should help us improve our internal operations and become more efficient in our delivery of services.

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

Funding is requested in the the Information Services FY2019-2020 budget (011801) in the Professional Services object code (5265).

**ATTACHMENTS:**

1. IT-Improvement-Services-Contract-w-InfoTechResearchGroup-Signed-ITRG-InyoDepts

**APPROVALS:**

Lavon Sargent	Created/Initiated - 9/10/2019
Darcy Ellis	Approved - 9/10/2019
Sue Dishion	Approved - 9/11/2019
Amy Shepherd	Approved - 9/12/2019
Marshall Rudolph	Approved - 9/12/2019
Scott Armstrong	Final Approval - 9/12/2019

**AGREEMENT BETWEEN COUNTY OF INYO  
AND Info-Tech Research Group Inc.  
FOR THE PROVISION OF Information Technology Improvement SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the Information Technology (IT) Improvement services of Info-Tech Research Group Inc., of 3960 Howard Hughes Parkway, Las Vegas, NV hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from October 1, 2019 to September 30, 2021 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor the sum total of Twenty-four thousand one hundred twenty Dollars and ninety cents (\$ 24,120.90) for performance of all of the services and completion of all of the work described in Attachment A.

B. Travel and Per Diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work under this Agreement.

C. No Additional Consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Contractor for all services and work to be performed under this Agreement shall not exceed Twenty-four thousand one hundred twenty Dollars and ninety cents (\$ 24,120.90) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and Payment. Contractor shall submit to the County, upon completion of all services and work set forth in Attachment A, an itemized statement of all services and work performed by Contractor pursuant to this Agreement. This statement will identify the date on which the services were performed and describe the nature of the services and work which was performed on each day. Upon receipt of the

statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

**F. Federal and State Taxes.**

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety-nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

**4. WORK SCHEDULE.**

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

**5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

**6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by



Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

**7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

**8. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment B and with the provisions specified in that attachment.

**9. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

**10. DEFENSE AND INDEMNIFICATION.**

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.



**11. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

**12. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

**13. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**14. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**15. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty one (21) below.

**16. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written

consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**17. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**18. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement.

**19. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**20. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-one (21) (Amendment).

**21. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**22. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

<u>County of Inyo</u>	
<u>Information Services</u>	Department
<u>168 N. Edwards St.</u>	Address
<u>Independence, CA 93526</u>	City and State

Contractor:

<u>Info-Tech Research Group Inc.</u>	Name
<u>3960 Howard Hughes Pkwy S500</u>	Address
<u>Las Vegas, NV 89169</u>	City and State

**23. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

# #

**AGREEMENT BETWEEN COUNTY OF INYO  
AND Info-Tech Research Group Inc.  
FOR THE PROVISION OF Information Technology Improvement SERVICES**

9th IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
DAY September, 2019.

**COUNTY OF INYO**

By: \_\_\_\_\_  
Type or Print Name

Dated: \_\_\_\_\_

**CONTRACTOR**

DocuSigned by:  
*Ryan Huggett*  
By: \_\_\_\_\_  
Ryan Huggett

Type or Print Name

Dated: 09 September 2019

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

  
\_\_\_\_\_  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

  
\_\_\_\_\_  
County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND Info-Tech Research Group Inc.  
FOR THE PROVISION OF Information Technology Improvement SERVICES**

**TERM:**

**FROM:** October 1, 2019 **TO:** September 30, 2021

**SCOPE OF WORK:**

SEE ATTACHED SCOPE OF WORK

## **APPROACH TO ACCOMPLISH THE SCOPE OF WORK**

The RFP identified a list of services and tools required from the successful vendor to drive IT improvement. The following sections provide an overview of our services available to align with these business objectives and value-added services available throughout the term of the contract. All services are available for a minimum one-year term. Access is available for up to 10 members of your Information Services staff.

## **RESEARCH, TOOLS, TEMPLATES, AND POLICIES**

Info-Tech Research Group assists CIOs, IT leadership and organizations achieve what they want most: measurable results while assisting in developing teams to meet tomorrow's challenges. Our experience ensures the research and advisory support delivered is driven from best practices from industry peers.

We do lots of 'what' and 'why' research, but the bulk of our product focuses on 'how'. We have over 600 blueprints that you and your team use to actually improve a process or deliver on a project. Other vendors frame a problem and provide case studies about how a few companies are tackling the problem and provide forecasting and trends – it's primarily an executive education product and they do that very well. But from there, you really are on your own to figure out how to get it done. By contrast, we build out the project road map for you, the communications tools, planning documents, templates, etc. that you need to actually do the project. That reduces the risk of project failure and delays dramatically, and gives the project leader a huge head start in getting the project done. All of Info-Tech's research is based on a COBIT 5, CMMI, TOGAF, ITIL, NIST, ISO, and DAMA DMBOK2 framework(s).

Info-Tech uses a number of formats to effectively present our research including solution sets, project blueprints, tools, templates, analyst calls, webinars, videos, on-site strategy sessions, events, and workshops. Our focus is to help your organization navigate critical technology projects through a guided implementation. We move beyond reports with action-based research to drive sustainable IT improvement through innovative research.

Our competencies include:

- Providing analyst advisory services that include both written and verbal consultations
- Assisting with vendor and technology sourcing support and selection decisions
- Supporting critical IT projects and implementations throughout the year
- Providing IT governance and process support and improvement advice
- Assisting senior management with organizational planning and strategy
- Providing a self-serving 24 hour resource of written research
- Providing benchmarking reports that include business alignment assessments
- Building business cases for key IT investments made throughout the year

The Blueprints and Resources published on Info-Tech's website are chosen based on market direction, client demand, and IT trends; non-sponsored, independent research. We offer over 600 do-it-yourself project and process Blueprints. In addition, we offer thousands of Trend Reports, Industry Notes, Reference Architectures, Toolkits, Software Reviews, Benchmarking Reports, IT Policy Templates, Toolkits, Case Studies, and Videos developed by our industry experts to help our members save time and money when it comes to tackling their most important IT initiatives.

All topics covered in the core Blueprints are organized under eight research silos:

- CIO

- Infrastructure & Operations
- Enterprise Architecture
- Applications
- Project & Portfolio Management
- Data & Business Intelligence
- Security
- Vendor Management

The research is then categorized based on further clarified sub sections. All written materials are also easily found via the search bar function based on extensive metadata and key words specific to topic, author, or title. Research is available in an unlimited fashion to all users through the 24/7 web-portal – [www.infotech.com](http://www.infotech.com). Sample publications:

- [Develop and Deploy IT Security Policies](#)
- [Standardize the Service Desk](#)
- [Raise Your Digital Maturity](#)
- [Combine Security Risk Management Components Into One Program](#)
- [Own the Cloud: Strategy & Action Plan](#)
- [Position IT to Support and Be a Leader in Open Data Initiatives](#)
- [Develop a Plan to Pilot Enterprise Service Management](#)
- [Create a Customer-Centric Digital Strategy](#)
- [Ensure Meaningful Connections With Citizens Using New Interaction Channels](#)
- [Redesign IT Governance to Drive Optimal Business Results](#)
- [Design a Customer-Centric Digital Operating Model](#)
- [Take Control of Infrastructure Metrics](#)
- [Use Application Metrics that Matter](#)
- [Develop Meaningful Service Metrics to Ensure Business and User Satisfaction](#)
- [Leverage Application Development Metrics to Gauge Process and Increase Success](#)
- [Implement Agile Practices that Work](#)
- [Optimize the IT Operations Center](#)

The County of Inyo can contact the authors of the research publications to discuss the research in more detail and the applicability of the research to their business context at the County and their role. The consultations are typically delivered via WebEx so the member can view each section of the research through a screen-share.

Each named user will receive unlimited access to our website where they can browse through our extensive catalog of IT research, download our ready-to-use tools and templates, book experiences, and save their favorite content to their research library.

Members will have a unique user name and password to access the content. Weekly e-mails will be sent to summarize new publications applicable to their role. Members can also customize their research feed to easily find new research by category, role, date, popularity, resource type, and keyword search.

Online Features:

- Unique User Login Credentials
- Advanced Keyword Search
- Filter Content by Area and Type
- Content Preview



- Video Content Player
- Content Downloading
- Personal Library for Saved Research
- Training Course Enrollment
- Book Experiences
- Share Content with Peers
- Share Content on Social Media
- Customizable Account Settings

Research is provided in a step-by-step format with tools and templates to enable CIO's and IT Leaders to get to action. See example below – Build an IT Budget that Demonstrates Value Delivery

### Start here – read the Executive Brief

Read our concise Executive Brief to find out how to build a budget that demonstrates value delivery.

**P** [Build an IT Budget That Demonstrates Value Delivery – Executive Brief](#)



**P** [Build an IT Budget That Demonstrates Value Delivery – Phases 1-3](#)



### 1. Plan

Plan for success.

**P** [Build an IT Budget That Demonstrates Value Delivery – Phase 1: Plan](#)



**W** [IT Budget Interview Guide](#)



### 2. Build

Build the budget.

**P** [Build an IT Budget That Demonstrates Value Delivery – Phase 2: Build](#)



**X** [IT Cost Forecasting Tool](#)



### 3. Sell

Sell the budget.

**P** [Build an IT Budget That Demonstrates Value Delivery – Phase 3: Sell](#)



**P** [IT Budget Presentation](#)



The County of Inyo will have a team of IT staff members accessing content on the website. Info-Tech enables users to save research on the web-portal and share with other users within their organization. This service increases teamwork and collaboration within the department. It also enables our members to



organize content. The home page also features key research applicable to your role and the ability to directly schedule appointments to explore research in further detail with the authors/analysts.

New research is published weekly on the web-portal. Each IT team member will receive an update when research is published. This prompt ensures frequent usage of the subscription. Your dedicated Account Director and Executive Advisors/Partners will also schedule times with each member to review new research available so you receive consistent value from the subscription.

E-Mail preferences can be set to each user's preferences.

## ADVISORY SERVICES

Info-Tech has over 300 Analysts available to guide IT Leaders through the research on the web-portal and discuss IT topics in more detail to ensure best practices are in place. Members can initiate a call through the web-portal or by contacting their dedicated Account Management Team.

Please refer to the following link to review the experience of our analysts: [Analyst Biographies](#). As the fastest growing IT research firm in the world, we are regularly adding talent to our research and consulting practice.

Info-Tech's analysts are not revenue driven but customer service driven and ultimately, customer focused. The only goal of our analysts is to provide the right advice when our clients need it in a tailored manner to best suit the specific needs of our member's particular environment.

Analyst calls can be requested through your dedicated Account Manager or directly on the member's library/home page. We offer a 24-hour turnaround for our Analyst Inquiry Service. Multiple staff can be on one call with Info-Tech's Expert Analysts and there are no limits to the number of follow-up calls on any given topic.

Our analysts are available to assist the IT Leaders and extended team members with the following:

- Information to validate or discuss the best direction for an IT project
- Assistance getting the buy-in from other members of your organization
- Provide an objective third-party to answer your IT/management questions
- Review of vendors being evaluated for a particular IT solution
- Guidance and direction for process improvements and program upgrades
- Guided Implementation assistance for your major IT projects from beginning to end

Calls are typically booked for one-hour timeslots but it is important to keep in mind that Info-Tech has a focus on delivering value within our analyst interactions and does not determine a set limit on a particular topic. There is a focus on getting the appropriate solution with a combination of both analyst expertise as well as our written research that are supplemented with tools and templates instead of measuring time during a potentially critical advice related conversation with one of our analysts.

As a major component of Info-Tech's written research, our World Class Operations Framework Blueprints and Guided Implementations provide a detailed and step-by-step outline to optimize, implement and manage the County of Inyo's core IT processes. Info-Tech's World Class Operations materials are based on a COBIT 5 and ITIL Framework and the processes outlined are extremely important to any Senior Technology department head's job.

The published research is made up of process modules broken down into step-by-step plans to lead your members from the opening phase of the process such as assessments, current state analysis and corporate

goal identification, all the way to the final and ideal state with the assistance of a formalized strategy roadmap, stakeholder buy-in strategy, a communication plan and final deliverables.

The most comprehensive aspect of Info-Tech's World Class Operations Frameworks and Guided Implementations is access to our expert analyst team. Through Info-Tech's proposed subscription, you will have the ability to book analyst calls to gain desired expertise on your most pressing technology concerns. These calls are one hour long in duration and the best way for Info-Tech to provide your members with tailored and extensive advice and direction in a one-one-one format.

Having all of the steps, procedures and tools & templates to help you get the job done and your processes optimized is one half of Info-Tech's focus. The second aspect is ensuring your members have access to analyst expertise via conversational means which Info-Tech sees as paramount in terms of specific and tailored advice to your organization's particular environment.

Through the Guided Implementation process, a series of calls will be administered between Info-Tech's subject matter expert of the particular topic of interest and the point of contact/project manager at the County. The first call will be a general scoping of the particular IT topic of interest. During that call, a tentative timetable will also be set for further calls as you move along the process of that particular technology's implementation guidelines (as set out in our Guided Implementation Blueprints on the website). The Guided Implementation process will be extremely advantageous for your members as the Implementation Blueprints accompanied by the analyst's on-going support ensures optimum process/project execution.

For every project you start, we have an expert analyst waiting to help you execute best practices and stay on schedule. It's on-demand project support when you need it the most. Each Guided Implementation conducted with our analysts saves our members an average of \$22,517 and 14 days of valuable IT resources.

The following graphic is an example of how a Guided Implementation is organized and delivered:

1. **Understand best practices to grow my own PPM solution**  
Develop a PPM solution that is affordable, adaptable, and effective
  - Storyboard: Grow Your Own PPM Solution
  - PPM Strategy Development Tool
2. **Implement the home-grown PPM solution**  
Start actively managing and growing the portfolio
  - Project Portfolio Workbook
3. **Maintain and continue to grow my PPM solution**  
Maximize the effectiveness and value of the PPM solution
  - PPM Standard Operating Procedure

**Guided Implementation**

This guided implementation is a three call advisory process.

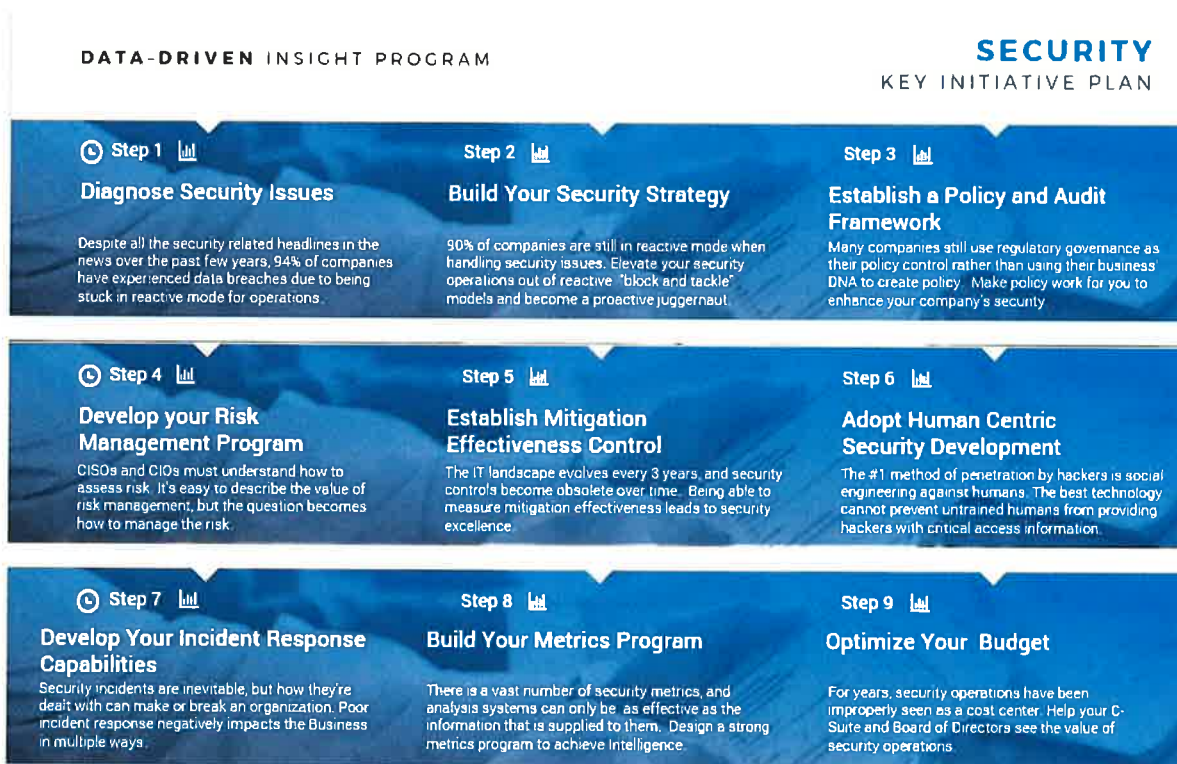
- Call #1: Define your PPM strategy and goals**  
This step will help you determine your baseline PPM maturity, analyze PPM cost drivers, validate your PPM benefits assumptions, and formalize portfolio goals and metrics
- Call #2: Design and build the home-grown PPM solution**  
This step will help you select, populate, customize, and extend one of Info-Tech's three PPM solution templates. This step will include defining the PPM engagement process to determine requirements based on organizational and stakeholder needs
- Call #3: Conduct your annual PPM health-check**  
This step will help you evaluate and improve the PPM solution to maximize its adoption and value. Additionally, this step may include continuing to build maturity toward implementing a commercial tool.

[Schedule Your First Call](#)

Info-Tech's professional services practice is unique in that it blends the knowledge and experience of a research firm, with the methodology and proven delivery capabilities of a large consultancy, while maintaining the flexibility and effective pricing of a smaller organization. Additionally, because we are a research organization, our ongoing coverage of the complete range of IT solutions means we have a view to the future and can help your organization in understanding not only its current needs, but its future ones as well. Info-Tech uses COBIT and ITIL as a standard IT framework.

Get support for your IT leadership team. Our Roadmaps help you build and manage core IT functions to systematically improve performance. Each Roadmap includes a series of diagnostics to help you assess strengths and weaknesses of your current state as well as help you envision your target. We provide you with tools and training to help you succeed at key projects that are proven to enhance your department's capability and drive increased business satisfaction. Step-by-step initiatives ensure that your IT leadership team has a plan in place for creating real improvement over the course of your membership.

The dedicated Executive Advisors and extended analyst team will work with your IT team to focus attention on key projects and initiatives most important to Maryland Judiciary. See sample engagement plans below for a IT Security function.



Info-Tech also offers a program called **Purchase Optimization**. This service is very popular with our clients as they are able to send our analysts their particular contracts and documents (Microsoft, SAN Storage, Data Center Co-location, Enterprise Networks etc.) for us to review. This process includes an initial review of the contract by our analysts and then a call, similar to an advisory call with the analyst that reviewed the document. Document Reviews also include Business Cases, Business/IT Policies, Strategic Plans, EA Frameworks, RFP's, Job Descriptions, etc.

Info-Tech does not place a page limit on document reviews or a limit on the number of document reviews completed during the term of a membership. Through this call our analyst is able to provide you with tailored insight for potential savings, compliance issues, appropriate feature options and general best practice tips for your contract negotiation process. A summarized document will be provided.

## IT STAFFING ANALYSIS

**IT Staffing Assessment** - Our comprehensive report shows you exactly where IT staff time is going and whether or not it's effectively driving results. Communicate how IT staff support the business and use included feedback from your staff to guide improvement exercises. Industry benchmarking is included.

Please review the sample report: [Sample Report - IT Staffing Assessment.pdf](#)

Benefits of completing Info-Tech's IT Staffing Assessment:

1. Staffing Benchmarking: see your staffing metrics at a glance and how they compare against your peers across over 4,000 organizations; use this data to determine whether you and your team are in line with industry benchmarks and how to course-correct
2. Time Breakdown by IT Function: assess staffing levels across 20 IT functions; compare staffing levels against business priorities to ensure alignment
3. Time Breakdown by Activity: evaluate resource time spent on high value vs. low value activities; establish targets by area and ensure your team has the support to get there
4. IT Function Effectiveness Assessments: get scorecard-based assessments of IT function effectiveness from both IT and the business

The IT Staffing Analysis when combined with our CIO Business Vision program will help build strategic alignment with County priorities.

Our analysts will work with the County to support all aspects of IT Staffing and Organizational Design to optimize resources. Sample publications:

- [Optimize the IT Operating Model](#)
- [Redesign Your IT Organizational Structure](#)
- [Build a Strategic Workforce Plan](#)

## IT-FOCUSED TRAINING FOR IS-DEPARTMENT EMPLOYEES

Info-Tech provides an entire research silo related to Talent Leadership research specifically targeted to improve your organization's strategies on how to lead your IT team effectively. We provide proven resources that will help your IT leadership team become better managers.

Much like our information technology focused research, our Talent Leadership resources include Guided Implementations, Data Driven Diagnostic tools, Solution Sets and pre-written tools, templates and job descriptions all designed to ensure your IT department is a driving force for the overall business.

Our Advisors will help your team leverage the resources and provide executive coaching as part of your professional development goals.

The Talent Leadership silo also includes The Info-Tech Academy, which enables your staff to receive training in one of the 45 core IT processes (based on COBIT). 9 certificates are available by completing the outlined solution sets for each process. We understand that IT departments struggle to develop their



staff. This is a unique opportunity to increase the utilization and value of an IT research service. Each topic is accompanied by webinars and videos with our subject matter experts and IT members.

For example, the Data & BI Certificate includes the following courses:

- Business Intelligence & Reporting
- Data Architecture
- Data Quality

The courses include a combination of videos, research, and activities. This is a great opportunity for the CIO/Executives to learn and develop but also train direct reports and colleagues more effectively in these areas. The access to the program is unlimited and unrestricted to all IT staff at the County of Inyo.

Each of the designated members can assign courses from the 45 core IT processes (based on the COBIT framework) to their staff at any level as shown in the screenshot:

## STAKEHOLDER MANAGEMENT & CONTINUOUS IT IMPROVEMENT

Info-Tech's mission is to help clients tackle their key IT issues by enabling data-driven decision making with our consulting quality deliverables that are low effort and high impact. Our data-driven programs help justify IT spending to provide the most value to the organization as a whole by focusing on the end-user. Info-Tech's programs are the key to comprehensive, top-to-bottom alignment with the business.

Three important goals are achieved:

1. Increased transparency into and satisfaction with IT with clear performance metrics
2. Business support for IT projects aligned with business goals
3. Increased investment in IT resources

Info-Tech's [Diagnostic & Benchmarking](#) programs enable our members to collect the data they need to make key IT decisions. Info-Tech's proposal includes Diagnostic and Benchmarking Programs throughout the term of the contract targeted towards the IT Business Heads and Senior Leaders.

With data from over 45,000 business leaders, we understand what activities correlate with high IT performance and can help you successfully complete these activities in your own organization.

Unlimited access to diagnostic/benchmarking programs are available with the proposed subscription. This is a key differentiator of our service offering and a value-added service for the County. The following sections highlight key diagnostic and benchmarking programs available to support IT Executives and CIOs.

**CIO Business Vision** – Stakeholder Management is a critical aspect of running a successful IT department. Info-Tech's CIO Business Vision program is a low effort, high impact program that will give you detailed report cards on the organization's satisfaction with IT's core services.

Use these insights to understand your key business stakeholders, find out what is important to them, and improve your interactions. The CIO Business Vision survey is administered by our research team upon request. The valuable statistics you will receive from this survey range from Stakeholder satisfaction metrics, IT capacity metrics, and departmental metrics including stakeholder feedback reports. The value of this survey has five key points:

1. Plan your stakeholder strategy with Info-Tech
2. Build consensus & accountability within IT
3. Brief critical stakeholders within the Government
4. Build relationships with key decision-makers
5. Create company and business unit action plans

Please review the following sample report: [Sample Report - CIO Business Vision.pdf](#)

The most important thing a CIO can do is understand the business needs and actively measure that the business is satisfied. Info-Tech's CIO Business Vision program allows our clients to do just that by receiving feedback on key IT functions.

**CEO-CIO Alignment Program** - I would encourage IT Leaders take advantage of this program at the beginning of the membership so we can effectively set up an engagement plan over the course of the year that will provide the most value to your department and the organization as a whole. For decades, IT-business alignment has been touted as the next dimension of effective IT. Yet many IT leaders are still without the tools they need to understand and support business priorities.

Decipher business needs by understanding the CEO's/Head of the Business's perspective. Automate IT-business alignment so IT can operate effectively and generate tangible value for your business.

As leader of an IT department, you recognize that your ideas, priorities, and perspectives differ from those of business leaders. This program eliminates the guesswork and starts closing the gaps between these perspectives.

By taking part in the CEO-CIO Alignment Program, you have already taken the first step to building IT-business alignment that optimizes IT and drives business value. This report shares insights from the survey component of our program. It will help your IT division:

- Understand the Business Head's perception of and vision for IT in your business
- Identify and build core IT processes that automate IT-business alignment
- Create a plan to address alignment gaps impeding business growth
- Deliver your plan to demonstrate IT value and progress

Please review the following sample report: [Sample Report - CEO-CIO Alignment.pdf](#)

**IT Management & Governance Diagnostic**

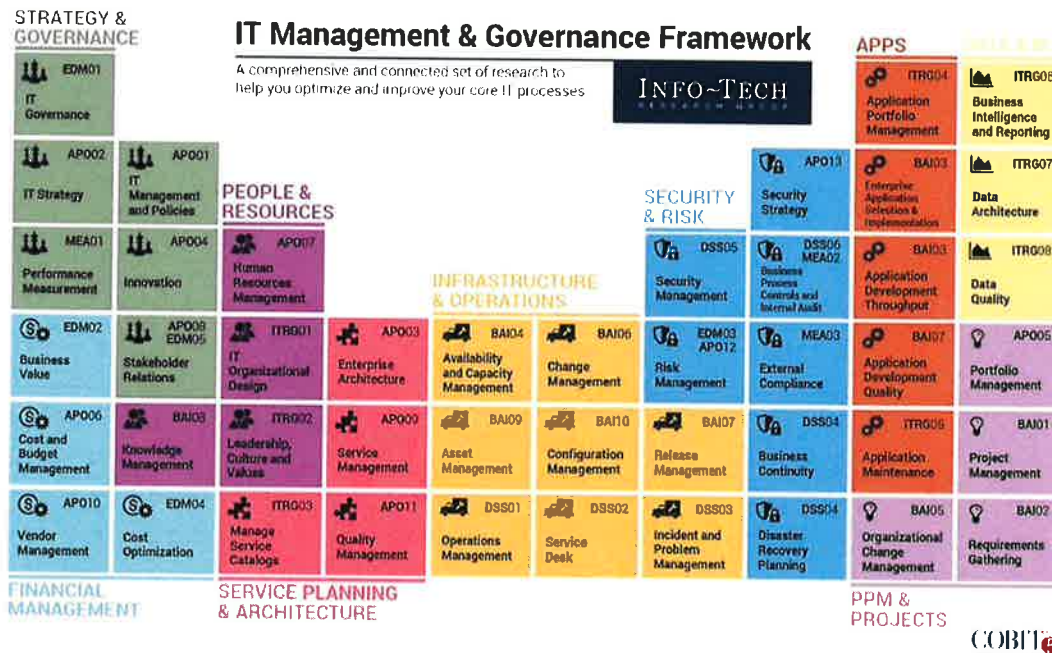
Info-Tech’s IT Management and Governance Diagnostic is a new innovative program available to the County, which allows IT Executive’s to understand their team’s perception of the importance and effectiveness of their technology processes. Build consensus around which processes are important and ineffective by conducting an IT team alignment exercise.

The program enables the IT organization to create a customized process improvement roadmap to maximize impact and focus time and resources more efficiently and accurately.

There are 4 key steps that will guide you through the program to optimize your IT processes:

1. Map Your Process Landscape - Determine which processes your team believes need more attention so that you can effectively allocate your time and resources across all process initiatives. Understand what your next steps should be for each of the processes in your organization based on the feedback received from your entire team
2. Process Spotlight - Dive deeper into each processes’ performance. Highlight contentious areas and understand how aligned your team is for each process.
3. Team Alignment - Use the results to facilitate a team alignment exercise with your team. Prioritize your team’s process improvement efforts by getting opposing views on the table and reconciling the differences to build consensus.
4. Ownership & Accountability - Assign process ownership and hold team members accountable for process improvement initiatives to ensure successful implementation and to realize the benefits from more effective processes.

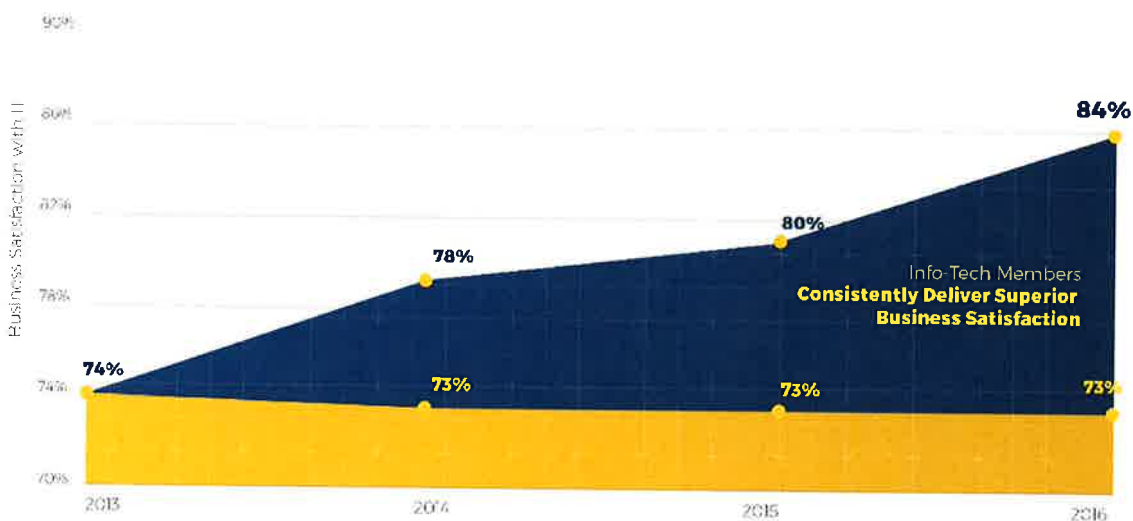
Info-Tech uses a “heat-map” style graphic to identify the effectiveness and relative importance of each IT process. The processes below align with the COBIT 5 Framework of IT



Additional IT function diagnostic programs include:

- **IT Security Diagnostic** - The IT Security Diagnostic Program is a low effort, high impact program designed to help IT Security Leaders assess and improve their security practices. Gather and report on IT Security governance, business satisfaction, and effectiveness to understand where you stand and how you can improve.
- **Application Portfolio Assessment** - Application portfolio management is nearly impossible to perform without an honest and thorough understanding of end user sentiment toward IT software. Develop data driven insights to help you decide which applications to retire, upgrade, re-train on or maintain, to meet the demands of the business.
- **End User Satisfaction** - Service optimization is nearly impossible to perform without an honest and thorough understanding of end user sentiment toward IT services and software.
- **Data Quality Scorecard** - Our comprehensive report shows you how the business feels about data quality and what the most pressing issues are. Use the feedback to guide improvement efforts and develop a focused action plan.
- **Project Portfolio Management Diagnostic Program** - The Project Portfolio Management Diagnostic Program is a low effort, high impact program designed to help project owners assess and improve their PPM practices. Gather and report on all aspects of your PPM environment in order to understand where you stand and how you can improve.

For over 20 years, Info-Tech has provided IT teams with practical advice that helps make measurable improvement. Since launching our systematic program to improve IT performance in 2013, Info-Tech members have dramatically outperformed their peers by delivering superior levels of business satisfaction.





**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND Info-Tech Research Group Inc.  
FOR THE PROVISION OF Information Technology Improvement SERVICES**

**TERM:**

**FROM:** October 1, 2019 **TO:** September 30, 2021

**SEE ATTACHED INSURANCE PROVISIONS**

**Attachment B**  
**to Standard County Contract No. 113**  
**Insurance Requirements for IT Vendor Services**

IT Vendor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Vendor, its agents, representatives, or employees. Vendor shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

*(Not required if consultant provides written verification it has no employees)*

If the Vendor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

Except for the Consultant's Indemnification obligations related to: (1) breach of confidentiality; (2) third party intellectual property infringement; and, (3) bodily injury and property damage; to the fullest extent permissible by applicable law, notwithstanding anything to the contrary herein, the maximum amount that Consultant or its related entities, suppliers, sub-contractors, agents or distributors is liable to the County of Inyo for under this Agreement, for any reason whatsoever, including negligence, is Two Million Dollars (\$2,000,000USD). The parties acknowledge that Consultant has set its prices and entered into this agreement in reliance on the limitations of liability and disclaimers of warranties and damages set forth herein, and that the same form a fundamental and essential basis of the bargain between the parties.

**Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

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***Additional Insured Status***

**The County, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Vendor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

***Primary Coverage***

For any claims related to this contract, the **Vendor's insurance coverage shall be primary** insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Vendor's insurance and shall not contribute with it.

***Notice of Cancellation***

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the County.**

***Waiver of Subrogation***

Vendor hereby grants to County a waiver of any right to subrogation which any insurer of said Vendor may acquire against the County by virtue of the payment of any loss under such insurance. Vendor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the County. The County may require the Vendor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

***Acceptability of Insurers***

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not ***replaced with another claims-made policy form with a Retroactive Date*** prior to the contract effective date, the Vendor must purchase "extended reporting" coverage for a minimum of ***five (5) years*** after completion of contract work.

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***Verification of Coverage***

Vendor shall furnish the County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to County before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Vendor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Subcontractors***

Vendor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Vendor shall ensure that County is an additional insured on insurance required from subcontractors.

***Special Risks or Circumstances***

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.



# County of Inyo



## County Administrator - Recycling & Waste Management

### CONSENT - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Cap Aubrey

**SUBJECT:** Award a bid for the purchase of two recycling roll off bins

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**RECOMMENDED ACTION:**

Request Board award a bid in the amount of \$15,041.54 to McLaughlin Waste Equip, Inc. of Lockeford, CA for the purchase of two (2) recycling roll-off bins.

**SUMMARY/JUSTIFICATION:**

The Inyo County Recycling and Waste Management 2019/2020 fiscal year budget included funding for the purchase of two (2) recycling roll-off bins. The roll-off bins will allow Inyo County Recycling and Waste Management to increase our capability for glass and plastic recycling in the Inyo County landfills.

**Bid results:**

McLaughlin Waste Equip Inc	\$15,041.54
Waste Equip	\$16,307.38
Stockton Tri Industries	\$18,140.00

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board may choose not to award this bid to the low bidder, however this is not recommended due to the need for additional recycling roll off bins for the efficiency of the Waste Management Department.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

The purchase of the recycling roll-off bins have been budgeted in the fiscal year 2019/2020 Solid Waste budget, 045700, object code 5650 (Equipment).

**ATTACHMENTS:**

**APPROVALS:**

Teresa Elliott

Darcy Ellis

Teresa Elliott

Amy Shepherd

Marshall Rudolph

Leslie Chapman

Created/Initiated - 8/27/2019

Approved - 8/28/2019

Approved - 9/5/2019

Approved - 9/5/2019

Approved - 9/5/2019

Final Approval - 9/5/2019



# County of Inyo



## Public Works

### CONSENT - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Debbe Ditmar

**SUBJECT:** Award contract for Insect and Pest Control Services to Pestmaster, Inc. of Reno, NV for the period of October 1, 2019 through June 30, 2022.

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**RECOMMENDED ACTION:**

Request Board approve the contract between the County of Inyo and Pestmaster Services of Reno, NV for the provision of Insect and Pest Control Services for the period of October 1, 2019 through June 30, 2022 in the amount not to exceed \$41,330.40, contingent upon the Board's adoption of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

On August 7, 2019 bids were received for insect and pest control services to designated County facilities.

Two (2) companies submitted bids:

Owens Valley Pest of Bishop, CA at \$22,200.00 per year.

Pestmaster Services Inc. of Reno, NV at \$13,776.80 per year.

Pestmaster Services, Inc. came in as the lowest bidder, therefore the Public Works Department recommends your Board award the bid for Insect and Pest Control Services to Pestmaster Services, Inc. of Reno, NV.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The alternative to the above recommendation is for your Board to not approve this contract and discontinue providing insect and pest control services to our facilities at the lower contracted price. This is not recommended as we have several County facilities with kitchens and insect and pest control is a much needed service in the area for which we work.

**OTHER AGENCY INVOLVEMENT:**

County Counsel for the approval of the contract.

Auditor's Office for processing of payments.

Risk Management for insurance requirements.

Public Works Building and Maintenance for accounts payable and contract oversight.

**FINANCING:**

This will be a budgeted General Fund expenditure through Building and Maintenance budget 011100 object code 5265 Professional Services, and has been included in the FY 19/20 budget.

**ATTACHMENTS:**

1. Pestmaster Contract
2. Bid Tabulation

**APPROVALS:**

Debbe Ditmar	Created/Initiated - 9/5/2019
Darcy Ellis	Approved - 9/5/2019
Debbe Ditmar	Approved - 9/5/2019
Breanne Nelums	Approved - 9/6/2019
Michael Errante	Approved - 9/6/2019
Marshall Rudolph	Approved - 9/6/2019
Amy Shepherd	Approved - 9/9/2019
Sue Dishion	Approved - 9/11/2019
Michael Errante	Final Approval - 9/11/2019



Exhibit 1

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Pestmaster Services, Inc.  
**FOR THE PROVISION OF** INSECT AND PEST CONTROL SERVICES **SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the INSECT AND PEST CONTROL services of PESTMASTER SERVICES, INC. of RENO, NEVADA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Chris Cash, whose title is: Deputy Director of Public Works. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from OCTOBER 1, 2019 to JUNE 30, 2022 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$41,330.40 Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

#### **4. WORK SCHEDULE.**

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

#### **5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from

receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

**6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

**7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

**8. WORKERS' COMPENSATION.**

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than \$1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

**9. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

**10. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

## **11. DEFENSE AND INDEMNIFICATION.**

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

## **12. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

## **13. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

## **14. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

## **15. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County.

Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**16. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**17. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-three (23) below.

**18. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**19. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**20. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**21. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**22. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-three (23) (Amendment).

**23. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**24. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo	
<u>PUBLIC WORKS</u>	Department
<u>168 N. EDWARDS</u>	Street
<u>INDEPENDENCE, CALIFORNIA 93526</u>	City and State

Contractor:	
<u>PESTMASTER SERVICES, INC.</u>	Name
<u>9716 S. VIRGINIA STREET SUITE E</u>	Street
<u>RENO, NEVADA 89511</u>	City and State

**25. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** PESTMASTER SERVICES, INC.

**FOR THE PROVISION OF** INSECT AND PEST CONTROL SERVICES **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Print or Type Name

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

County Counsel

\_\_\_\_\_

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** \_\_\_\_\_  
PESTMASTER SERVICES, INC.

**FOR THE PROVISION OF** \_\_\_\_\_  
INSECT AND PEST CONTROL SERVICES \_\_\_\_\_ **SERVICES**

**TERM:**

**FROM:** OCTOBER 1, 2019      **TO:** JUNE 30, 2022

**SCOPE OF WORK:**

COMPANY SHALL PROVIDE PREVENTATIVE INSECT AND COCKROACH TREATMENT, AS DEFINED BELOW, AT DESIGNATED COUNTY FACILITIES AS LISTED IN THE SCHEDULE OF FEES.

- A. Preventative Insect Treatment: Spraying of insecticide along interior and exterior perimeter for ants, spiders, and other insects and pests.
- B. Cockroach Treatment: Placement of traps in all bathrooms, behind doors, and stairwells.



**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** \_\_\_\_\_ PESTMASTER SERVICES, INC. \_\_\_\_\_

**FOR THE PROVISION OF** \_\_\_\_\_ INSECT AND PEST CONTROL SERVICES \_\_\_\_\_ **SERVICES**

**TERM:**

**FROM:** OCTOBER 1, 2019      **TO:** JUNE 30, 2022

**SCHEDULE OF FEES:**

SELLER SHALL PROVIDE SERVICES AT THE COST AS SHOWN IN THE ATTACHED BID PROPOSAL FORM WITH SERVICES PERFORMED MONTHLY, AND QUARTERLY WITH AN ESTIMATED YEARLY TOTAL OF \$13,776.80 AND NOT TO EXCEED AMOUNT OF \$41,330.40 DURING THE TERM OF THE CONTRACT OCTOBER 1, 2019 THROUGH JUNE 30, 2022.

**BID PROPOSAL FORM**

**INSECT AND PEST CONTROL FOR DESIGNATED COUNTY FACILITIES FOR THE  
PERIOD OF October 1, 2019 – JUNE 30, 2022**

**THE UNDERSIGNED SUBMITS THE FOLLOWING AMOUNTS AS A BID FOR  
THE ABOVE DESCRIBED COUNTY WORK:**

<b>LOCATION:</b>	<b>MONTHLY TOTAL \$ AMOUNT</b>	<b>YEAR TOTAL \$ AMOUNT</b>
<b>A. Progress House</b> 536 N. Second Street Bishop, CA 93514	<u>\$56.07</u> MO	<u>\$672.84</u> YR
<b>B. Bishop Senior Center</b> 506 Park Street Bishop, CA 93514	<u>\$62.91</u> MO	<u>\$754.92</u> YR
<b>C. Bishop Wellness Center</b> 586 Central Street Bishop, CA 93514	<u>\$16.41</u> MO	<u>\$196.92</u> YR
<b>D. Statham Hall</b> 138 N. Jackson Street Lone Pine, CA 93545	<u>\$88.35</u> MO	<u>\$1,060.20</u> YR
<b>E. Tecopa Community Center</b> Hwy 127 Tecopa CA, 92389	<u>\$15.59</u> MO	<u>\$187.08</u> YR
	<b>QUARTERLY TOTAL \$ AMOUNT</b>	<b>YEAR TOTAL \$ AMOUNT</b>
<b>F. Search &amp; Rescue</b> 85 Airport Rd Bishop, CA 93514	<u>\$77.96</u> QTR	<u>\$311.84</u> YR
<b>G. Eastern Sierra Regional Airport Hangar A</b> 703 Airport Road Bishop, CA 93514	<u>\$47.19</u> QTR	<u>\$188.76</u> YR
<b>Eastern Sierra Regional Airport Building 7</b> 703 Airport Road Bishop, CA 93514	<u>\$85.06</u> QTR	<u>\$340.24</u> YR

<b>H. HHS/Veterans/Env/Farm/Ag</b> 207 W. South Street Bishop, CA 93514	<u>\$201.05</u> QTR	<u>\$804.20</u> YR
<b>I. CPS/Behavioral Health/Public Guardian</b> 162 Grove Street Bishop, CA 93514	<u>\$116.10</u> QTR	<u>\$464.40</u> YR
<b>J. Bishop Administration</b> 163 May Street Bishop, CA 93514	<u>\$69.61</u> QTR	<u>\$278.44</u> YR
<b>K. Bishop Sheriff Substation</b> 301 W Line Street Bishop, CA 93514	<u>\$41.03</u> QTR	<u>\$164.12</u> YR
<b>L. WIC</b> 568 West Line St. Bishop, CA 93514	<u>\$83.85</u> QTR	<u>\$335.40</u> YR
<b>M. Child Support/District Attorney</b> 162 E. Line Street Bishop, CA 93514	<u>\$164.12</u> QTR	<u>\$656.48</u> YR
<b>N. Big Pine Town Hall</b> 150 Dewey Street Big Pine, CA 93513	<u>\$116.69</u> QTR	<u>\$466.76</u> YR
<b>O. Main Courthouse</b> 168 N. Edwards Street Independence, CA 93526	<u>\$255.27</u> QTR	<u>\$1,021.08</u> YR
<b>P. Annex Building (South of Courthouse)</b> 168 N Edwards Street Independence, CA 93526	<u>\$203.43</u> QTR	<u>\$813.72</u> YR
<b>Q. Administration Building</b> 224 N. Edwards Street Independence, CA 93526	<u>\$108.26</u> QTR	<u>\$433.04</u> YR
<b>R. HHS Fiscal</b> 155 Market Street Independence, CA 93526	<u>\$87.91</u> QTR	<u>\$351.64</u> YR
<b>S. Eastern Sierra Museum</b> 155 N. Grant Street Independence, CA 93526	<u>\$65.65</u> QTR	<u>\$262.60</u> YR
<b>T. Legion Hall</b> 205 S. Edwards Street Independence, CA 93526	<u>\$41.96</u> QTR	<u>\$167.84</u> YR

U. Road Shop 750 S. Clay Street Independence, CA 93526	<u>\$45.14 QTR</u>	<u>\$180.56 YR</u>
V. Inyo County Jail 550 S. Clay Street Independence, CA 93526 Interior & Exterior	<u>\$492.30 QTR</u>	<u>\$1,969.20 YR</u>
W. Independence Juvenile Facility 201 Mazourka Canyon Road Independence, CA 93526	<u>\$225.67 QTR</u>	<u>\$902.68 YR</u>
X. Water Department 135 Jackson Street Independence, CA 93526	<u>\$116.61 QTR</u>	<u>\$466.44 YR</u>
Y. Lone Pine HHS 380 N. Mt. Whitney Drive Lone Pine, CA 93545	<u>\$41.96 QTR</u>	<u>\$167.84 YR</u>
Z. Lone Pine Sheriff Substation 726 N. Main Street Lone Pine, CA 93545	<u>\$39.39 QTR</u>	<u>\$157.56 YR</u>

Total for One Year (12 Months)  
Insect/Pest Control Services

\$13,776.80  
**GRAND TOTAL ONE YEAR**


Bidder's Name: Pestmaster Services, Inc.

Bidder's Mailing Address: 9716 S Virginia St., Ste. E  
Reno, NV 89511

Signature of Representative: 

Telephone: 775-858-7378 Email: contracts@pestmaster.com



This bid was received on Aug. 7  
20 19 11:19 a.m.  
ATTEST: Clint Quilter, Administrative Officer  
and Clerk of the Board Inyo County, California  
By  Assistant

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND PESTMASTER SERVICES, INC.  
FOR THE PROVISION OF INSECT AND PEST CONTROL SERVICES SERVICES**

**TERM:**

**FROM:** OCTOBER 1, 2019

**TO:** JUNE 30, 2022

**SEE ATTACHED INSURANCE PROVISIONS**

**Specifications 1**  
**Insurance Requirements for Most Contracts**  
**(Not for Professional Services or Construction Contracts)**

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

**Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

***Additional Insured Status***

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

### ***Primary Coverage***

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

### ***Waiver of Subrogation***

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

### ***Verification of Coverage***

Contractor shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

### ***Special Risks or Circumstances***

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**COUNTY OF INYO BID TABULATION**

Project Title & Bid No. Insect & Pest control for Designated County Facilities

Bid Opening Date: 8/6/19 Location: County Admin Center

	BIDDER NAME	Base Bid	Bid Additive A	Bid Additive B	Bid Additive C	Total Base Bid and Additives	Bond
1.	Owens Valley Pest	\$22,200.00					
2.	Pestmaster Services	\$13,776.80					
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

Opened By: Darcy Ellis

Present: Ashley Helms

Debbe Ditmar







# County of Inyo



## Public Works

### CONSENT - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:**

**SUBJECT:** Award construction contract for the Bishop Airport Taxiway Rehabilitation Project

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**RECOMMENDED ACTION:**

Request Board: A) award the contract for the Bishop Airport Taxiway Rehabilitation Project (Project) to Qualcon Contractors Inc. of Minden, NV as the successful bidder; B) approve the construction contract between the County of Inyo and Qualcon Contractors Inc. of Minden, NV in the amount of \$4,722,055, and authorize the Chairperson to sign, contingent upon receipt of the forthcoming FAA grant for the Project and all appropriate signatures being obtained; and C) authorize the Public Works Director to execute all other project contract documents, including contract change orders, to the extent permitted by Public Contract Code Section 20142 and other applicable laws.

**SUMMARY/JUSTIFICATION:**

At the May 14, 2019 meeting of the Board of Supervisors, your Board approved plans and specifications for the Project, and authorized the Public Works Director to advertise the Project for bids. At the same meeting, the Board authorized the Public Works Director to sign the forthcoming Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant Agreement for construction of the Project.

The scope of work for the Project consists primarily of pavement rehabilitation and new pavement markings of all taxiways at the Bishop Airport.

On June 14, 2019 bids were opened for the Project. Three companies submitted the following bids, representing the total price for all bid schedules with all bid additives:

Bowman Asphalt Inc., Bakersfield, CA	\$8,291,681.00
Qualcon Contractors Inc., Minden, NV	\$7,403,699.50
Granite Construction Inc., Bakersfield, CA	\$8,928,128.50

All bids were reviewed by the County to determine responsiveness. Qualcon Contractors Inc. was found to be the lowest responsible responsive bidder to the Project bid proposal requirements.

After the bid opening the FAA reviewed the bids and determined that they would not fund the widening work on Taxiway H or the pavement rehabilitation work on Taxiway F at this time. Due to this change, the awarded scope for Schedule 2 has been modified using unit prices from the bid:

- Taxiway D 'East' will receive pavement recycling with overlay, which was the original scope of Schedule

2. Bid unit prices are consistent with Schedule 2.

- Taxiway H and J will receive a crack fill and seal coat treatment, using the bid unit prices for the same scope of work on Taxiway A (Schedule 1). The unit cost for pavement sealing is a negotiated price between the bid unit price for the seal coat on Taxiway A and Taxiway E.

The FAA grant for this Project is anticipated to be received on September 19th.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

Approval of Plans and Specification, and acceptance of the forthcoming FAA grant - May 14th, 2019

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to award the bid and construction contract for the Project, this is not recommended because the FAA grant includes a large amount of discretionary funds which may be lost if the contract is not awarded before the end of the federal fiscal year.

**OTHER AGENCY INVOLVEMENT:**

FAA  
CDA

**FINANCING:**

The Project will be funded by the FAA's AIP, which will reimburse the County for ninety percent (90%) of the cost of the Project, and by the CDA's matching grant program, which will reimburse the County for four and one-half percent (4.5%) of the cost of the Project. The reimbursable costs will be paid through budget unit 630305 Bishop Airport Taxiway Rehab, object code 5700, Construction in Progress in the amount of \$4,722,055. The County's cost share of this contract will be \$259,713 however if State funds are not available, the full match amount could be \$472,205.50.

In anticipation of this project Public Works budgeted funds for this Project in the Preliminary Budget for Fiscal Year 2019/2020.

**ATTACHMENTS:**

1. Bishop Taxiway Rehab contract\_Qualcon

**APPROVALS:**

Ashley Helms	Created/Initiated - 8/1/2019
Darcy Ellis	Approved - 8/2/2019
Ashley Helms	Approved - 9/3/2019
Justine Kokx	Approved - 9/4/2019
Michael Errante	Approved - 9/4/2019
Marshall Rudolph	Approved - 9/4/2019
Amy Shepherd	Approved - 9/5/2019
Michael Errante	Final Approval - 9/5/2019

**AGREEMENT**  
**BETWEEN THE COUNTY OF INYO AND**  
Qualcon Contractors Inc.

**for**

**TAXIWAY REHABILITATION PROJECT**  
**AT THE**  
**BISHOP AIRPORT**

**AIRPORT IMPROVEMENT PROGRAM**  
**FAA AIP PROJECT NO. #3-06-0024-021-2019**  
**COUNTY PROJECT NO: TR-19-001**

THIS CONTRACT is awarded by the COUNTY OF INYO to CONTRACTOR on and made and entered into effective, \_\_\_\_\_, 2019, by and between the COUNTY OF INYO, a political subdivision of the State of California, (hereinafter referred to as "COUNTY"), and Qualcon Contractors Inc (hereinafter referred to as "CONTRACTOR" for the construction or removal of the Bishop Airport Taxiway Rehabilitation PROJECT (hereinafter referred to as "PROJECT"), which parties agree, for and in consideration of the mutual promises, as follows:

- I. SERVICES TO BE PERFORMED:** CONTRACTOR agrees at its own expense to furnish all labor, materials, methods, processes, implements, tools, machinery, equipment, transportation, permits, services, utilities, and all other items, and related functions necessary to COUNTY to construct the Project in accordance with the terms of the Grant, as detailed in the COUNTY's REQUEST FOR BIDS *sub nom* "CONTRACT DOCUMENTS", portions of which are attached hereto as Attachment A and all of which is incorporated herein by this reference, as well as in the CONTRACTOR's Response to the Request for Bids, which is attached hereto as Attachment B and incorporated herein by this reference, and complete all work within the time for completion set forth in Attachment A.
- II. TIME OF COMPLETION:** Project work shall begin within 15 calendar days after receipt of the Notice to Proceed (NTP) (or on the start of work date identified in the NTP) and shall continue until all requested services are completed. Said services shall be completed no later than the Time of Completion as noted in the Project's Special Provisions. Procedures for any extension of time shall be complied with as noted in the Project's Special Provisions.
- III. COMPENSATION / CONSIDERATION:** Compensation to be paid to CONTRACTOR for performance of such work shall be in accordance with the schedules for payment set forth in Attachment "B" to this contract. Any payment by COUNTY shall not be deemed a waiver of defects, even if such defects were known to the COUNTY at the time of payment.
- IV. METHOD OF PAYMENT:** CONTRACTOR shall bill by invoice directed to the Director of Public Works or designee describing the work, the charge for the work, and date the work was performed. CONTRACTOR shall provide COUNTY a completed IRS form W-9 before payments will issue from COUNTY. COUNTY will pay the invoice within 30 days of the receipt following normal claims handling procedures.

**TAXIWAY REHABILITATION PROJECT AT THE BISHOP AIRPORT**  
**AIRPORT IMPROVEMENT PROGRAM**  
**FAA AIP PROJECT NO. #3-06-0024-021-2019**  
**COUNTY PROJECT NO: TR-19-001**

- V. STANDARD OF PERFORMANCE:** CONTRACTOR represents that he/she is qualified and licensed to perform the work to be done as required in this Contract. COUNTY relies upon the representations of CONTRACTOR regarding professional and/or trade training, licensing, and ability to perform the services as a material inducement to enter into this Contract. Acceptance of work by the COUNTY does not operate to release CONTRACTOR from any responsibility to perform work to professional and/or trade standards. CONTRACTOR shall provide properly skilled professional and technical personnel to perform all services under this Contract. CONTRACTOR shall perform all services required by this Contract in a manner and according to the standards observed by a competent practitioner of the profession. All work products of whatsoever nature delivered to the COUNTY shall be prepared in a manner conforming to the standards of quality normally observed by a person practicing in CONTRACTOR'S profession and/or trade.
- VI. INDEPENDENT CONTRACTOR:** Nothing contained herein or any document executed in connection herewith, shall be construed to create an employer-employee, partnership or joint venture relationship between COUNTY and CONTRACTOR nor to allow COUNTY to exercise discretion or control over the manner in which CONTRACTOR performs the work or services that are the subject matter of this Agreement; provided, however, the work or services to be provided by CONTRACTOR shall be provided in a manner consistent with reaching the COUNTY's objectives in entering this Agreement. CONTRACTOR is an independent CONTRACTOR, not an employee of COUNTY or any of its subsidiaries or affiliates. CONTRACTOR will not represent itself to be nor hold itself out as an employee of COUNTY. CONTRACTOR acknowledges that it shall not have the right or entitlement in or to any of the pension, retirement or other benefit programs now or hereafter available to COUNTY's employees. The consideration set forth in Sections IV and V above shall be the sole consideration due CONTRACTOR for the services rendered hereunder. It is understood that COUNTY will not withhold any amounts for payment of taxes from CONTRACTOR's compensation hereunder. Any and all sums due under any applicable state, federal or municipal law or union or professional and/or trade guild regulations shall be CONTRACTOR's sole responsibility. CONTRACTOR shall indemnify and hold COUNTY harmless from any and all damages, claims and expenses arising out of or resulting from any claims asserted by any third party, including but not limited to a taxing authority, as a result of or in connection with payments due it from CONTRACTOR's compensation.
- VII. ASSIGNMENT AND SUBCONTRACTING.** The parties recognize that a substantial inducement to County for entering into this Contract is the professional reputation, experience and competence of Contractor. Assignments of any and/or all rights, duties or obligations of the Contractor under this Contract will be permitted only with the express consent of the County. Contractor shall not subcontract any portion of the work to be performed under this Contract without the written authorization of the County. If County consents to such subcontract, Contractor shall be fully responsible to County for all acts or omissions of the subcontractor. Nothing in this Contract shall create any contractual relationship between County and subcontractor, nor shall it create any obligation on the part of the County to pay any monies due to any such subcontractor, unless otherwise required by law.
- VIII. CLAIMS RESOLUTION:** Pursuant to **Section 9204 of the Public Contract Code**, any and all claims submitted by the CONTRACTOR to COUNTY will follow the provisions as set forth in the Project's County Provisions section.
- IX. INSURANCE INDEMNIFICATION.** Contractor shall hold harmless, defend and indemnify

County and its officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses, including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the County.

**X. POLITICAL REFORM ACT.** Contractor is not a designated employee within the meaning of the Political Reform Act because Contractor:

1. Will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the County or of any County official, other than normal Contract monitoring; and
2. Possesses no authority with respect to any County decision beyond rendition of information, advice, recommendation or counsel [FPPC Reg. 18700(a)(2)].

**XI. COMPLIANCE WITH ALL LAWS.** Contractor shall use the standard of care in its profession and/or trade to comply with all applicable federal, state and local laws, codes, ordinances and regulations that relate to the work or services to be provided pursuant to this Contract.

1. **Safety Training:** Contractor shall provide such safety and other training as needed to assure work will be performed in a safe and healthful manner "in a language" that is understandable to employees receiving the training. The training shall in all respects be in compliance with CAL OSHA. Contractor working with employees shall maintain a written Injury and Illness Prevention (IIP) Program, a copy of which must be maintained at each worksite or at a central worksite identified for the employees, if the Contractor has non-fixed worksites. Contractor using subcontractors with the approval of the County to perform the work which is the subject of this Contract shall require each subcontractor working with employees to comply with the requirements of this section.
2. **Child, Family and Spousal Support Reporting Obligations:** Contractor shall comply with the state and federal child, family and spousal support reporting requirements and with all lawfully served wage and earnings assignment orders or notices of assignment relating to child, family and spousal support obligations.
3. **Nondiscrimination:** Contractor shall not discriminate in employment practices or in the delivery of services on the basis of membership in a protected class which includes any class recognized by law and not limited to race, color, religion, sex (gender), sexual orientation, marital status, national origin (Including language use restrictions), ancestry, disability (mental and physical, including HIV and Aids), medical Conditions (cancer/genetic characteristics), age (40 and above) and request for family care leave. Contractor represents that it is in compliance with federal and state laws prohibiting discrimination in employment and agrees to stay in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. sections 12101, et. seq.), Age Discrimination in Employment Act of 1975 (42 U.S.C. 5101, et. seq.), Title VII (42 U.S.C. 2000, et. seq.), the California Fair Employment Housing Act (California Government Code sections 12900, et. seq.) and regulations and guidelines issued pursuant

thereto.

**XII. LICENSES:** CONTRACTOR represents and warrants to COUNTY that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of CONTRACTOR to practice its trade and/or profession. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Contract, any licenses, permits, insurance and approvals which are legally required of CONTRACTOR to practice its and/or profession.

**XIII. PREVAILING WAGE:** Pursuant to Section 1720 et seq. of the Labor Code, CONTRACTOR agrees to comply with the Department of Industrial Relations regulations, to which this Contract is subject, the prevailing wage per diem rates in Inyo County have been determined by the Director of the State Department of Industrial Relations. These wage rates appear in the Department publication entitled "General Prevailing Wage Rates," in effect at the time the project is advertised. Future effective wage rates, which have been predetermined and are on file with the State Department of Industrial Relations are referenced but not printed in said publication. Such rates of wages are also on file with the State Department of Industrial Relations and the offices of the Public Works Department of the County of Inyo and are available to any interested party upon request. CONTRACTOR agrees to submit certified payroll to COUNTY and comply with the Department of Industrial Relations regulations in submitting the certified payroll.

**XIV. CONTROLLING LAW VENUE:** This Contract is made in the County of Inyo, State of California. The parties specifically agree to submit to the jurisdiction of the Superior Court of California for the County of Inyo.

**XV. WRITTEN NOTIFICATION:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, et cetera, shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to COUNTY: County of Inyo  
Public Works Department  
Attn: Ashley Helms  
168 N. Edwards  
PO Drawer Q Independence, CA 93526

If to CONTRACTOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**XVI. AMENDMENTS.** This Contract may be modified or amended only by a written document executed by both Contractor and County and approved as to form by Inyo County Counsel.

**XVII. WAIVER.** No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

**XVIII. TERMINATION.** This Contract may be terminated for the reasons stated below:

1. Immediately for cause, if either party fails to perform its responsibilities under

this Contract in a timely and professional manner and to the satisfaction of the other party or violates any of the terms or provisions of this Contract. If termination for cause is given by either party to the other and it is later determined that the other party was not in default or default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph "b" of this section; or

2. By either party without cause upon fifteen (15) days' written notice of termination. Upon termination, Contractor shall be entitled to compensation for services performed up to the effective date of termination; or
3. By County upon oral notice from the Board of Supervisors based on funding ending or being materially decreased during the term of this Contract.

**XIX. SEVERABILITY.** If any provision of this Contract is held to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall not be affected, impaired or invalidated.

**XX. CONTRACT SUBJECT TO APPROVAL BY BOARD OF SUPERVISORS.** It is understood and agreed by the parties that this Contract is subject to the review and approval by the Inyo County Board of Supervisors upon Notice and Public Hearing. In the event that the Board of Supervisors declines to enter into or approve said Contract, it is hereby agreed to that there is, in fact, no binding agreement, either written or oral, between the parties herein.

**XXI. TIME IS OF THE ESSENCE.** Time is of the essence for every provision in this Agreement.

**XXII. ALL PROVISIONS SET FORTH HEREIN:** CONTRACTOR and COUNTY agree that this Contract shall include and consist of:

1. All provisions set forth expressly herein;
2. The Bid Proposal Forms, the Faithful Performance Bond, and the Labor and Materials Payment Bond, all of which are incorporated herein and made a part of this contract by reference; and
3. All other contract documents, as described in **Section 5-1.02, "Contract Components"**; for the purpose of this Contract, Special Provisions includes:
  - a. County Provisions;
  - b. General Provisions;
  - c. Federal Provisions;
  - d. Special Provisions; and
  - e. Technical Specifications.

**XXIII. EXECUTION.** This Contract may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties. In approving this Contract, it shall not be necessary to produce or account for more than one such counterpart.

#### **XXIV. REQUIRED FEDERAL PROVISIONS**

**A. ACCESS TO RECORDS AND REPORTS:** The CONTRACTOR must maintain an acceptable cost accounting system. The CONTRACTOR agrees to provide the Owner, 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 CONTRACTOR which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The CONTRACTOR 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.

#### **B. BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the CONTRACTOR or its 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.

Owner will provide CONTRACTOR written notice that describes the nature of the breach and corrective actions the CONTRACTOR must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to CONTRACTOR until such time the CONTRACTOR corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the CONTRACTOR must correct the breach. Owner may proceed with termination of the contract if the CONTRACTOR fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

#### **C. GENERAL CIVIL RIGHTS PROVISIONS**

The CONTRACTOR agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the CONTRACTOR and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

#### **D. CIVIL RIGHTS – TITLE VI ASSURANCE**

##### **Compliance with Nondiscrimination Requirements:**

During the performance of this contract, the CONTRACTOR, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONTRACTOR"), agrees as follows:

1. **Compliance with Regulations:** The CONTRACTOR (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The CONTRACTOR, with regard to the work performed by it during the contract, will 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 CONTRACTOR will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.



3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the CONTRACTOR for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the CONTRACTOR of the CONTRACTOR's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The CONTRACTOR will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will 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 to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish the information, the CONTRACTOR will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a CONTRACTOR's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the CONTRACTOR under the contract until the CONTRACTOR complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The CONTRACTOR will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The CONTRACTOR will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the CONTRACTOR becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the CONTRACTOR may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the CONTRACTOR may request the United States to enter into the litigation to protect the interests of the United States.

#### **Title VI List of Pertinent Nondiscrimination Acts and Authorities**

During the performance of this contract, the CONTRACTOR, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONTRACTOR") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and CONTRACTORS, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

**E. CLEAN AIR AND WATER POLLUTION CONTROL**

CONTRACTOR agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The CONTRACTOR agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

CONTRACTOR must include this requirement in all subcontracts that exceeds \$150,000.

**F. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

1. **Overtime Requirements:** No CONTRACTOR or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any

workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; Liability for Unpaid Wages; Liquidated Damages:** In the event of any violation of the clause set forth in paragraph (1) of this clause, the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.
3. **Withholding for Unpaid Wages and Liquidated Damages:** The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime CONTRACTOR, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.
4. **Subcontractors:** The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

#### **G. COPELAND “ANTI-KICKBACK” ACT**

CONTRACTOR must comply with the requirements of the Copeland “Anti-Kickback” Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. CONTRACTOR and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The CONTRACTOR and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

#### **H. DAVIS-BACON REQUIREMENTS**

##### **1. Minimum Wages.**

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of

any contractual relationship which may be alleged to exist between the CONTRACTOR and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the CONTRACTOR and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the CONTRACTOR and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the CONTRACTOR, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the CONTRACTOR shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the CONTRACTOR does not make payments to a trustee or other third person, the CONTRACTOR may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the CONTRACTOR, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the CONTRACTOR to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2. Withholding.

The Federal Aviation Administration or the sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the CONTRACTOR under this contract or any other Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime CONTRACTOR, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the CONTRACTOR or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the CONTRACTOR, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the CONTRACTOR during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the CONTRACTOR shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. CONTRACTORS employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The CONTRACTOR shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the CONTRACTOR will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation

Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.* the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm) or its successor site. The prime CONTRACTOR is responsible for the submission of copies of payrolls by all subcontractors. CONTRACTORS and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the CONTRACTOR will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the CONTRACTOR, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime CONTRACTOR to require a subcontractor to provide addresses and social security numbers to the prime CONTRACTOR for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the CONTRACTOR or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the CONTRACTOR or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The CONTRACTOR or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the CONTRACTOR or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the CONTRACTOR, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the CONTRACTOR as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a CONTRACTOR is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the CONTRACTOR's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the CONTRACTOR will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage

determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the CONTRACTOR will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

#### 5. Compliance with Copeland Act Requirements.

The CONTRACTOR shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

#### 6. Subcontracts.

The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

#### 7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a CONTRACTOR and a subcontractor as provided in 29 CFR 5.12.

#### 8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

#### 9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the CONTRACTOR (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### 10. Certification of Eligibility.

(i) By entering into this contract, the CONTRACTOR certifies that neither it (nor he or she) nor any person or firm who has an interest in the CONTRACTOR's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

### **I. TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce



safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the CONTRACTOR to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The CONTRACTOR must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

#### **J. ENERGY CONSERVATION REQUIREMENTS**

CONTRACTOR and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201et seq).

#### **K. EQUAL OPPORTUNITY CLAUSE**

During the performance of this contract, the CONTRACTOR agrees as follows:

(1) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The CONTRACTOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions

may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

#### **L. CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **M. PROHIBITION OF SEGREGATED FACILITIES**

- (a) The CONTRACTOR agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The CONTRACTOR agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

- (b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
- (c) The CONTRACTOR shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

#### **N. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

#### **O. PROCUREMENT OF RECOVERED MATERIALS**

CONTRACTOR and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the CONTRACTOR and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
- 2) The CONTRACTOR has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at [www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products](http://www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products).

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the CONTRACTOR can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

#### **P. CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS**

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

### **Certifications**

- 1) The applicant represents that it is (  ) is not (  ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is (  ) is not (  ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

### **Note**

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

### **Term Definitions**

**Felony conviction:** Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

## **Q. TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)**

The Owner may terminate this contract in whole or in part at any time by providing written notice to the CONTRACTOR. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the CONTRACTOR shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. CONTRACTOR must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.

4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay CONTRACTOR for:

- 3) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- 4) documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
- 5) reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- 6) reasonable and substantiated expenses to the CONTRACTOR directly attributable to Owner's termination action.

Owner will not pay CONTRACTOR for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

#### **R. VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the CONTRACTOR and all sub-tier CONTRACTORS must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

**XXV. ENTIRE AGREEMENT:** This Contract, including the Contract Documents and all other documents which are incorporated herein by reference, constitutes the complete and exclusive agreement between the County and Contractor. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Contract. If any provision of this agreement is held to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall not be affected, impaired or invalidated.

**XXVI. ATTACHMENTS:** All attachments referred to are incorporated and made a part of this agreement. Attachments include:

Attachment "A:" COUNTY OF INYO RELVANT PORTIONS OF REQUEST  
FOR BIDS

Attachment "B:" RESPONSE TO COUNTY OF INYO REQUEST FOR BIDS

Attachment "C:" INSURANCE PROVISIONS

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

**COUNTY OF INYO**

**CONTRACTOR**

\_\_\_\_\_  
Rick Pucci, Board Chair

\_\_\_\_\_  
[ \_\_\_\_\_ ], Title

APPROVED AS TO FORM  
AND LEGALITY

ATTEST: CLINT QUILTER  
County Clerk  
Board of Supervisors

By \_\_\_\_\_  
Inyo County Counsel

By: \_\_\_\_\_

APPROVEE AS TO INSURANCE  
REQUIREMENTS:

By \_\_\_\_\_  
Inyo County Risk Manager

Attachment "A"

RELEVANT PORTIONS OF REQUEST FOR BID

**SPECIAL PROVISIONS  
TAXIWAY REHABILITATION  
BISHOP AIRPORT  
FAA AIP PROJECT NO. #3-06-0024-020-2018  
COUNTY PROJECT NO. TR-19-001**

1. LOCATION AND GENERAL DESCRIPTION OF THE WORK. The work to be done under this contract is located at the Bishop Airport, Bishop, California. The overall objective of the work is rehabilitation of the airport taxiways.

More specifically, the project consists of planing, paint removal, asphalt pavement removal, subgrade preparation and compaction, full depth reclamation (FDR) of the existing asphalt pavements and base, asphalt surface course and paint marking. Additive work items include additional pavement rehabilitation and micromilling and sealing of pavements with markings.

The scope of the work is shown on the "Construction Layout Plan".

All runways and adjacent aircraft parking aprons must remain in service during construction, except during brief periods, if approved by the Engineer.

2. TIME OF COMPLETION, SEQUENCE OF WORK SCHEDULES & MEETINGS. The Contractor shall complete all the work under the base bid within 135 calendar days from the date of notice to proceed. An additional 15 calendar days will be allowed for any and all bid additive work, if awarded, resulting in a total allowance of 150 calendar days. The Engineer may extend the duration for pavement curing time prior to paint markings and for materials delivery due to weather or manufacturer delays beyond the Contractor control, if deemed necessary in the sole judgment of the Engineer.

The airfield will remain open during construction, in accordance with the Construction Closure & Safety Plan. All work shall be performed in daylight unless approved otherwise by the Engineer. The Contractor may make submittals at any time after notification of award to expedite his ordering materials and commencing the work in an efficient manner. The Contractor's schedule submittals shall strive to consolidate work efforts and multi-task work items to the extent possible in order to expedite completion of the project and avoid the necessity of acceptance testing and inspection during periods of relatively minor activity. The contract time allows for procurement, delivery, and installation of all systems.

Within 10 days of the Notice to Proceed and every two weeks thereafter, the Contractor shall submit to the Engineer (in Microsoft Project format) baseline, monthly updated, and final updated schedules, each consistent in all respects with the time and order of work requirements of the contract. Work must be executed in the sequence indicated on the current accepted schedule.

Schedules must show the order in which the Contractor proposes to prosecute the work with logical links between time-scaled work activities and calculations made using the critical path method to determine the controlling activities. The Contractor is responsible for assuring that all activity sequences are logical and that each schedule shows a coordinated plan for complete performance of the work.

The Engineer will schedule the preconstruction meeting prior to issuing the Notice to Proceed to the Contractor. The Engineer will prepare an agenda for the preconstruction meeting and take minutes.

The Contractor shall be available to attend weekly progress meetings, if scheduled and determined by the Engineer to be necessary. The meeting shall be attended by the Contractor's



job foreman, safety officer, and representative of the subcontractors actively working or beginning to work at the time of the meeting.

The preparation of schedules and attendance at meetings shall be considered as included in Mobilization and no additional compensation will be allowed therefor.

3. LIQUIDATED DAMAGES. Liquidated damages, for failure to complete the work within the time for completion specified for any or all construction phases shall be three thousand dollars (\$3,000.00) per calendar day.
4. ASSIGNMENT. In entering this contract or a subcontract to this contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C.A. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this works contract or a subcontract. This assignment shall be made and become effective at the time the Owner tenders final payment to the Contractor without further acknowledgment by the parties.
5. PREVAILING WAGES AND TRAVEL AND SUBSISTENCE PAYMENTS. A copy of the determination of the general prevailing rates of per diem wages and general prevailing wages for holiday and overtime work in the locality in which the work is to be performed is on file at the Owner's offices. Contractor and any subcontractors will not pay less than the specified prevailing rates of wages to all workers employed in the execution of the contract. The Contractor will pay at least the minimum of state or federal wages, whichever is the greater.

Contractor will post one copy of the prevailing rates of wages at the job site. For each calendar day or portion thereof, and for each worker paid less than the stipulated prevailing rates for such work or craft in which the workman is employed or any public work done under the contract by him, or any subcontractor under him, Contractor shall forfeit the sum of \$50.00 as penalty to the Owner.

Travel and subsistence payments shall be paid to each worker needed to execute the work and such payments are defined in the applicable collective bargaining agreements filed with the Department of Industrial Relations for the particular craft, classification or type of work involved.

6. HOURS OF WORK. Eight hours labor constitutes a legal day's work pursuant to this contract. The time of service of any worker employed upon the project is limited and restricted to eight hours during any one calendar day and forty hours during any one calendar week unless said employee is compensated at a rate of one and one-half times the basic rate of pay for all times in excess of the foregoing hours. The Contractor and the Subcontractors shall not work more than 8 hours per day unless approved otherwise by the Engineer. If the Contractor schedule requires overtime observation or acceptance testing by the Engineer or Owner staff, the cost for additional payment to the Engineer and Owner for the Engineer's and Owner's overtime shall be deducted from payments to the Contractor. The Engineer shall be the sole judge of these hours and costs.

Contractor shall keep and make available and accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by the Contractor or any subcontractor in connection with the project.

Contractor shall, as a penalty, forfeit \$25.00 for each worker employed in execution of the contract by Contractor or by any subcontractor for each calendar day during that such worker is required or permitted to work more than eight hours in any one calendar day or forty hours in any one calendar week in violation of this section.

7. ACTS OF GOD. Contractor shall not be responsible for the cost of repairing or restoring damages to the work which exceeds 5% of the contract price and which damage is determined to have been proximately caused by an act of God, provided that the work damaged is built in accordance with accepted and applicable building standards and the plans and specifications of the Owner. As used herein, the term "acts of God" includes only earthquakes in excess of the magnitude of 3.5 on the Richter Scale and tidal waves.
8. CERTAIN CLAIMS. Notwithstanding the foregoing, any demand of \$375,000, or less, by the Contractor for a time extension; payment of money or damages arising from the work done by or on behalf of the Contractor pursuant to this contract; or payment of an amount which is disputed by the Owner shall be processed in by informal conferences, non-binding judicially supervised mediation and judicial arbitration.

A single written claim shall be filed under this section prior to the date of final payment for all demands arising out of the contract.

Within thirty (30) days of the receipt of the claim, the Owner may request additional documentation supporting the claim or relating to defenses or claims the Owner may have against the Contractor. If the amount of the claim is less than \$50,000, the Contractor shall respond to the request for additional information within fifteen (15) days after receipt of the request. The Contractor shall respond to the request within thirty (30) days of receipt if the amount of the claim exceeds \$50,000 but is less than \$375,000.

Unless further documentation is requested, the Owner shall respond to the claim within forty-five (45) days if the amount of the claim is less than \$50,000 or within sixty (60) days if the amount of the claim is more than \$50,000, but less than \$375,000. If further documentation is requested, the Owner shall respond within the same amount of time taken by the Contractor to respond or fifteen (15) days, whichever is greater, after receipt of further information if the claim is less than \$50,000. If the claim is more than \$50,000 but less than \$375,000 and further documentation is requested by the Owner, the Owner shall respond within the same amount of time taken by the Contractor to respond or thirty (30) days, whichever is greater.

If the Contractor disputes the Owner's response, or the Owner fails to respond, the Contractor may demand an informal conference to meet and confer for settlement of the issues in dispute. The demand shall be served on the Owner within fifteen (15) days after the deadline of the Owner to respond or within fifteen (15) days of the Owner's response, whichever occurs first. The Owner shall schedule the meet and confer conference within thirty (30) days of the request.

If the meet and confer conference does not produce a satisfactory request, the Contractor may pursue remedies authorized by law.

9. CONSTRUCTION MEANS AND SAFETY. Wadell Engineering Corporation, its subconsultants, and the Owner are not responsible for the construction means, methods, techniques, sequences, and safety at the site. These items are the sole responsibility of the Contractor. The Contractor shall comply with applicable portions of the attached FAA Advisory Circular 150/5370-2G, "Operational Safety on Airports During Construction".
10. PUBLIC SAFETY AND CONVENIENCE. The Contractor shall use every reasonable precaution to safeguard persons and property including the general public. It shall be the sole responsibility of the Contractor to place and maintain airport furnished water filled barricades with lights, and to furnish and maintain any other barriers, temporary construction fences, lights, and danger signals as are necessary to protect persons and property near the work site. All barricades and obstructions shall be protected at night by lights, which shall be suitably distributed and kept illuminated from sunset to sunrise. Lights shall be of a type acceptable to the Engineer with 360-degree visibility.

In the event of interruption to domestic water, sewer, storm drain, or to other utility services as a result of accidental breakage, or as a result of being exposed or unsupported, the Contractor shall promptly notify the proper authority. The Contractor shall cooperate with said authority in restoration of service as promptly as possible and bear all costs of repair. In no case shall interruption of any water or utility service be allowed to exist outside working hours unless prior approval is received.

Neither the owner nor its officers or agents or Wadell Engineering Corporation shall be responsible to the Contractor for damages as a result of the location of the underground utilities being other than that shown on the plans or for the existence of underground utilities not shown on the plans. The Contractor shall seek and mark utilities within the work area prior to excavation or opening ground surfaces. The Contractor shall retain, utilize and compensate a private USA company for utility marking prior to any digging.

11. FIRE PREVENTION AND PROTECTION. The Contractor shall perform all work in a fire-safe manner. He shall supply and maintain on the site adequate fire-fighting equipment capable of extinguishing incipient fires. The Contractor shall comply with applicable local and state fire prevention regulations.
12. PROTECTION OF UTILITIES, CABLES, NAVAIDS, AND WEATHER BUREAU FACILITIES. The Contractor is hereby informed that there are public utility, airport private utility, FAA and weather bureau facilities on the airport. It is the Contractor's responsibility to find and protect such facilities. The Contractor shall conduct private USA utility searches within work areas, in particular the terminal area and near FAA facilities to prevent damage to systems. The cost is considered included in the cost of all subgrade preparation and underground work, and is not subject to separate payment.
13. CONSTRUCTION LAYOUT AND STAKES. The Contractor shall furnish all stakes for the layout and construction of the work. The Contractor shall satisfy himself as to the accuracy of all measurements before constructing any permanent structure. No staking will be provided by the Engineer. The Contractor's layout for paint markings shall be done at the direction of an on-site California licensed professional land surveyor.

No separate measurement and payment will be made for establishing and maintaining construction layout stakes required under this Contract. The cost for this construction layout staking shall be considered to be included in the various contract prices for which construction layout staking is required.
14. TEMPORARY ELECTRIC POWER. The Contractor shall make his own arrangements for electric power for use during construction. The Contractor shall compensate the Owner at Owner determined rates for any use of Owner power.
15. SANITARY FACILITIES. The Contractor shall provide and maintain sanitary facilities for his employees and his subcontractor's employees that will comply with the regulations of the local and state departments of health and as directed by the Engineer.
16. WATER & WATERING. The Contractor shall furnish and apply water required in the compaction of embankments, subgrades, subbases, base courses, dust control, and for other purposes in accordance with the requirements of these specifications or as directed by the Engineer. Water, when required, shall be applied at the locations, in the amounts, and during the hours as directed by the Engineer. The Contractor shall make all arrangements and shall bear all expenses for furnishing of water supply including adequate equipment of ample capacity to ensure uniform application of water in the amounts directed by the Engineer.

The performance of this item, including provision of all water, shall be considered incidental to the other contract items and, therefore, no direct payment for water shall be made.

17. HAUL ROUTES, ROUTE MAINTENANCE, AND DUST CONTROL. Construction equipment shall follow the routes if shown on the plans unless the Engineer approves other routes.

The Contractor shall perform all necessary maintenance of routes during construction and shall perform all work as necessary to restore the routes used by his equipment to their original condition at the conclusion of construction. Damage to existing paved and unpaved areas shall be repaired promptly and to the sole satisfaction of the Engineer. Pavement damage repairs shall include milling, compaction and repaving as directed by the Engineer. The Contractor is hereby notified that heavy truck usage of the airport pavements and roads likely will result in the requirement for repairs. Such repairs shall be at no cost to the Owner.

Dust control methods and means shall be designed and implemented by the Contractor to assure that dust from the project and support areas shall not spread to adjacent on airport tenants and parking areas or to off-airport properties. The economic value of damage to aircraft and aircraft maintenance facilities and activities can occur even by light dusting, which may result in claims and civil litigation. Haul routes shall be sprinkled with water as necessary to prevent dust diffusion during the course of the work.

All maintenance and restoration work shall be completed to the Engineer's satisfaction before final payment is awarded.

18. WORK IN AIR OPERATIONS AREAS. Employee vehicle parking is confined to the Contractor's area shown on the plans. This project requires work in and adjacent to aircraft operations areas. When the Contractor enters air operations areas the following apply:

The Contractor shall provide a knowledgeable flag person with aviation radio to prevent vehicle incursions and access to operations areas including crossings of runways and taxiways.

FAA-approved orange and white checkered flags shall be provided by the Contractor on all vehicles. No vehicles are allowed within 25 feet of a parked aircraft or within 40 feet of a moving aircraft.

Workmen on foot shall remain at least 150 feet back from the edge of an operational runway, unless cleared through a radio operator who then maintains a watch over the operation. Workmen on or within 50 feet of an active runway or taxiway shall wear orange safety vests at all times.

In the event of an emergency, men and equipment shall be moved immediately at the direction of the Engineer.

Normally, work will not be permitted in the air operations area between the hours 2000 to 0600. If an emergency situation requires work during these hours, the Contractor shall notify the Engineer as far in advance as possible and obtain clearance from him before proceeding to work. During night operations, each vehicle shall be equipped with an omni-directional amber flashing light mounted on the roof of the cab. Headlights, taillights and flashers shall be used for all activities during these hours.

19. HAZARD LIGHTING OF CONSTRUCTION AREAS. In the area of construction as shown on the plans and in accordance with the construction schedule, the Contractor shall outline access routes to the construction area and the construction area itself by the use of suitable lighted barricades.

Construction equipment that extends 15 feet or more above ground level shall be cleared through the Engineer and shall be lighted at night in an approved manner and/or lowered to height of adjacent structural surroundings at the discretion of the Engineer.

20. **CLEANUP DURING THE WORK.** The Contractor shall at all times during the work keep the premises clean and orderly. He shall promptly remove all waste materials and rubbish. All directions from the Engineer and other authorized public officials having jurisdiction over health and safety shall be obeyed.

Whenever the Contractor is hauling material or debris on or across roadways, auto parking, aircraft aprons, taxiways, or runways, he shall take all necessary precautions to prevent any spillage or dropping of material or debris from his haul vehicles. If and when such spills occur, the Contractor shall be especially diligent in promptly cleaning them up. It is emphasized that even the smallest spills of rock or debris may be hazardous to automobiles and aircraft until cleaned up.

21. **SITE RESTORATION AND CLEANUP.** Upon completion of the project, all areas used by the Contractor in connection with the work shall be properly cleared of all temporary structures, rubbish, and waste materials and the areas shall be properly graded to drain and blend in with the abutting property. Any waste area obtained by the Contractor for deposit of waste materials shall be finished to properly drain and blend with the surrounding terrain.

22. **CONTRACTOR PERFORMANCE AND COOPERATION.** The Owner relies on prompt and efficient execution of the project and closeout of the contract. Contractor non-responsiveness or mismanagement that results in delay to the Engineer adversely impacts the Owner's ability to perform compliance inspections, complete the project accounting and finish the project. The Contractor will be deemed non-responsive or un-cooperative in the event the Contractor does not furnish (1) daily receipts for delivered materials (where applicable such as aggregate base and asphaltic concrete), (2) prompt progress and final payment requests, (3) prompt Contractor test results for quality control, (4) complete and accurate "as-built" markup drawings for the completed work.

The Engineer shall not allow payment for materials delivered without an applicable load receipt submitted to the Engineer on the day of delivery. The Contractor shall have 14 calendar days from completion of the final punch list work to submit "as-built" markups and the final payment request.

Delays to the Engineer due to the Engineer's determination of non-responsiveness by the Contractor shall be back charged against monies due the Contractor at the rate of \$2,000 per engineer day. Such charges are in addition to liquidated damages.

**END OF SPECIAL PROVISIONS**

Attachment "B"

RESPONSE TO REQUEST FOR BID

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT OF MEASURE	QUALCON UNIT PRICE	AWARD ITEM TOTAL
<b>SCHEDULE ONE</b>					
<b>TAXIWAY "A", "A1", "A2" &amp; "A3"</b>					
1	Mobilization (M-105) (5% Max of This Schedule)	1	LS	\$ 32,000.00	\$ 32,000.00
2	Contractor Quality Control Program (C-100) for All Schedules	1	LS	\$ 210,000.00	\$ 210,000.00
3	Crack Repairs - Small - Detail A1 - Not Mapped (P-101)	1	LS	\$ 60,000.00	\$ 60,000.00
4	Crack Repairs - Medium - Detail A2 (P-101)	2,690	LF	\$ 24.00	\$ 64,560.00
5	Crack Repairs - Large - Detail A3 (P-101)	1,031	LF	\$ 28.00	\$ 28,868.00
6	Hot Mix Asphalt for Detail A2 and Detail A3 Crack Repairs (P-101)	150	TON	\$ 275.00	\$ 41,250.00
7	Paint Removal (P-101)	22,132	SF	\$ 2.25	\$ 49,797.00
8	Pavement Sealing (P-626)	49,750	SY	\$ 3.00	\$ 149,250.00
9	Airfield Yellow Pavement Marking With Beads (P-620)	9,431	SF	\$ 1.50	\$ 14,146.50
10	Airfield Black Pavement Marking With No Beads (P-620)	11,816	SF	\$ 1.00	\$ 11,816.00
11	Surface Painted Holding Position Signs With Beads (P-620)	18	EA	\$ 900.00	\$ 16,200.00
<b>TOTAL TAXIWAY "A", "A1", "A2" &amp; "A3"</b>					<b>\$ 677,887.50</b>
<b>TAXIWAY "F" - REMOVED FROM PROJECT</b>					
<b>TOTAL SCHEDULE ONE</b>					<b>\$ 677,887.50</b>
<b>SCHEDULE TWO - SCOPE MODIFIED, SEE BELOW</b>					
<b>TAXIWAY "H", "J" &amp; "D EAST"</b>					
<b>TOTAL SCHEDULE TWO</b>					<b>\$ -</b>
<b>SCHEDULE THREE</b>					
<b>TAXIWAY "B"</b>					
1	Mobilization (M-105) (5% Max of This Schedule)	1	LS	\$ 45,000.00	\$ 45,000.00
2	Unclassified Excavation - Fillet (TW 'B' & 'C') 8"± Deep 100%, Haul To Disposal & Compact 95% (P-152)	105	CY	\$ 75.00	\$ 7,875.00
3	FDR Existing Pavement and New Fillet (P-207)	11,100	SY	\$ 11.00	\$ 122,100.00
4	5% Cement for FDR Processing (P-207)	250	TON	\$ 200.00	\$ 50,000.00
5	Milling Existing Pavement East End (P-101) 4"±	4,200	SY	\$ 5.00	\$ 21,000.00
6	0.33' Plant Mix Bituminous Pavement (P-401)	3,600	TON	\$ 178.00	\$ 640,800.00
7	Shoulder Grading Pavement Edge To Lights with Native Material 95% (P-152)	5,000	SY	\$ 7.00	\$ 35,000.00
8	Airfield Yellow Pavement Marking With Beads (P-620)	1,300	SF	\$ 1.50	\$ 1,950.00
9	Airfield Black Pavement Marking With No Beads (P-620)	2,600	SF	\$ 1.00	\$ 2,600.00
<b>TOTAL TAXIWAY "B"</b>					<b>\$ 926,325.00</b>
<b>TAXIWAY "C SOUTH"</b>					
1	Mobilization (M-105) (5% Max of This Schedule)	1	LS	\$ 14,000.00	\$ 14,000.00
2	FDR Existing Pavement (P-207)	2,990	SY	\$ 18.00	\$ 53,820.00
3	5% Cement for FDR Processing (P-207)	70	TON	\$ 200.00	\$ 14,000.00
4	0.33' Plant Mix Bituminous Pavement (P-401)	800	TON	\$ 190.00	\$ 152,000.00
5	Shoulder Grading Pavement Edge To Lights with Native Material 95% (P-152)	1,150	SY	\$ 10.00	\$ 11,500.00
6	Airfield Yellow Pavement Marking With Beads (P-620)	591	SF	\$ 1.50	\$ 886.50
7	Airfield Black Pavement Marking With No Beads (P-620)	662	SF	\$ 1.00	\$ 662.00
8	Surface Painted Holding Position Signs With Beads (P-620)	2	EA	\$ 900.00	\$ 1,800.00
9	Remove Taxiway Light Fixture (L-861T(L)) (L-125) And Furnish Blank Lid	5	EA	\$ 230.00	\$ 1,150.00
10	Remove Taxiway Light, Dispose Can & Concrete (L-861T(L)) (L-125)	6	EA	\$ 1,000.00	\$ 6,000.00
11	New Can With Reused Taxiway Fixture (L-861T(L)) (L-125)	7	EA	\$ 2,500.00	\$ 17,500.00
12	Remove & Relocate Sign (L-858) (L-125)	1	EA	\$ 8,000.00	\$ 8,000.00
13	2" Dia. Duct (L-110) - Flowable Backfill With Counterpoise (P-153)	463	LF	\$ 40.00	\$ 18,520.00
14	Taxiway AWG 8, 5KV Single Conductor (L-108)	504	LF	\$ 5.00	\$ 2,520.00
<b>TOTAL TAXIWAY "C SOUTH"</b>					<b>\$ 302,358.50</b>
<b>TAXIWAY "G"</b>					
1	Mobilization (M-105) (5% Max of This Schedule)	1	LS	\$ 14,000.00	\$ 14,000.00
2	FDR Existing Pavement (P-207)	4,355	SY	\$ 15.00	\$ 65,325.00
3	5% Cement for FDR Processing (P-207)	100	TON	\$ 200.00	\$ 20,000.00

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT OF MEASURE	QUALCON UNIT PRICE	AWARD ITEM TOTAL
4	0.33' Plant Mix Bituminous Pavement (P-401)	350	TON	\$ 250.00	\$ 87,500.00
5	Pavement Sealing Taxiway G (P-626)	16,130	SY	\$ 5.00	\$ 80,650.00
6	Shoulder Grading 10' Wide with Native Material 95% (P-152)	1,350	SY	\$ 10.00	\$ 13,500.00
7	Airfield Yellow Pavement Marking With Beads (P-620)	100	SF	\$ 1.50	\$ 150.00
8	Airfield Black Pavement Marking With No Beads (P-620)	200	SF	\$ 1.00	\$ 200.00
<b>TOTAL TAXIWAY "G"</b>					<b>\$ 281,325.00</b>
<b>TOTAL SCHEDULE THREE</b>					<b>\$ 1,510,008.50</b>
<b>TOTAL ALL SCHEDULES ONE, TWO AND THREE</b>					<b>\$ 2,187,896.00</b>
<b>ADDITIVE ONE: TAXIWAY "C NORTH"</b>					
1	Mobilization (M-105) (5% Max of This Schedule)	1	LS	\$ 38,000.00	\$ 38,000.00
2	Contractor Quality Control Program (C-100) for Additive One	1	LS	\$ 35,000.00	\$ 35,000.00
2	FDR Existing Pavement (P-207)	11,000	SY	\$ 10.00	\$ 110,000.00
3	5% Cement for FDR Processing (P-207)	250	TON	\$ 200.00	\$ 50,000.00
4	0.33' Plant Mix Bituminous Pavement (P-401)	2,800	TON	\$ 178.00	\$ 498,400.00
5	Shoulder Grading Pavement Edge To Reflectors with Native Material 95% (P-152)	4,310	SY	\$ 8.00	\$ 34,480.00
6	Airfield Yellow Pavement Marking With Beads (P-620)	591	SF	\$ 1.50	\$ 886.50
7	Airfield Black Pavement Marking With No Beads (P-620)	662	SF	\$ 1.00	\$ 662.00
8	Surface Painted Holding Position Signs With Beads (P-620)	2	EA	\$ 900.00	\$ 1,800.00
<b>TOTAL ADDITIVE ONE: TAXIWAY "C NORTH"</b>					<b>\$ 769,228.50</b>
<b>ADDITIVE TWO: TAXIWAY "D"</b>					
1	Mobilization (M-105) (5% Max of This Schedule)	1	LS	\$ 50,000.00	\$ 50,000.00
2	Contractor Quality Control Program (C-100) for Additive Two	1	LS	\$ 40,000.00	\$ 40,000.00
3	Unclassified Excavation - Fillets 8"± Deep 100%, Haul To Disposal & Compact 95% (P-152)	85	CY	\$ 90.00	\$ 7,650.00
4	FDR Existing Pavement and New Fillet (P-207)	15,625	SY	\$ 10.00	\$ 156,250.00
5	5% Cement for FDR Processing (P-207)	350	TON	\$ 200.00	\$ 70,000.00
6	0.33' Plant Mix Bituminous Pavement (P-401)	3,525	TON	\$ 178.00	\$ 627,450.00
7	Shoulder Grading Pavement Edge To Reflectors with Native Material 95% (P-152)	6,015	SY	\$ 8.00	\$ 48,120.00
8	Airfield Yellow Pavement Marking With Beads (P-620)	1,785	SF	\$ 1.50	\$ 2,677.50
9	Airfield Black Pavement Marking With No Beads (P-620)	2,451	SF	\$ 1.00	\$ 2,451.00
10	Surface Painted Holding Position Signs With Beads (P-620)	4	EA	\$ 900.00	\$ 3,600.00
11	Remove Taxiway Light Fixture (L-861T(L)) (L-125) And Furnish Blank Lid	2	EA	\$ 230.00	\$ 460.00
12	Remove Taxiway Light, Dispose Can & Concrete (L-861T(L)) (L-125)	4	EA	\$ 1,000.00	\$ 4,000.00
13	New Can With Reused Taxiway Fixture (L-861T(L)) (L-125)	5	EA	\$ 2,500.00	\$ 12,500.00
14	2" Dia. Duct (L-110) - Flowable Backfill With Counterpoise (P-153)	415	LF	\$ 40.00	\$ 16,600.00
15	Taxiway AWG 8, 5KV Single Conductor (L-108)	588	LF	\$ 5.00	\$ 2,940.00
<b>TOTAL ADDITIVE TWO: TAXIWAY "D"</b>					<b>\$ 1,044,698.50</b>
<b>ADDITIVE THREE: TAXIWAY "E"</b>					
1	Mobilization (M-105) (5% Max of This Schedule)	1	LS	\$ 8,000.00	\$ 8,000.00
2	Micro-mill Taxiway E (P-101)	16,135	SY	\$ 2.00	\$ 32,270.00
3	Pavement Sealing Taxiway E (P-626)	16,135	SY	\$ 5.00	\$ 80,675.00
4	Shoulder Grading Pavement Edge To Reflectors with Native Material 95% (P-152)	6,350	SY	\$ 5.00	\$ 31,750.00
4	Airfield Yellow Pavement Marking With Beads (P-620)	2,286	SF	\$ 1.50	\$ 3,429.00
5	Airfield Black Pavement Marking With No Beads (P-620)	3,446	SF	\$ 1.00	\$ 3,446.00
6	Surface Painted Holding Position Signs With Beads (P-620)	4	EA	\$ 900.00	\$ 3,600.00
<b>TOTAL ADDITIVE THREE: TAXIWAY "E"</b>					<b>\$ 163,170.00</b>
<b>TOTAL ALL ADDITIVES ONE, TWO AND THREE</b>					<b>\$ 1,977,097.00</b>
<b>TOTAL ALL SCHEDULES AND ALL ADDITIVES</b>					<b>\$ 4,164,993.00</b>
<b>SCHEDULE 2 SCOPE CHANGE - USING BID UNIT PRICES</b>					
<b>TAXIWAY "D EAST"</b>					



ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT OF MEASURE	QUALCON	AWARD
				UNIT PRICE	ITEM TOTAL
1	Mobilization	1	LS	\$ 19,643.70	\$ 19,643.70
2	FDR Existing Pavement (P-207)	3,523	SY	\$ 10.00	\$ 35,230.00
3	5% Cement for FDR Processing (P-207)	40	TON	\$ 200.00	\$ 8,000.00
4	0.33' Plant Mix Bituminous Pavement (P-401)	793	TON	\$ 178.00	\$ 141,154.00
5	Shoulder Grading Pavement Edge To Reflectors with Native Material 95% (P-152)	1,060	SY	\$ 7.00	\$ 7,420.00
6	Airfield Yellow Pavement Marking With Beads (P-620)	1,120	SF	\$ 1.50	\$ 1,680.00
7	Airfield Black Pavement Marking With No Beads (P-620)	1,153	SF	\$ 1.00	\$ 1,153.00
8	Surface Painted Holding Position Signs With Beads (P-620)	2	EA	\$ 900.00	\$ 1,800.00
<b>TOTAL TAXIWAY "D EAST"</b>					<b>\$ 216,080.70</b>
<b>TAXIWAY "H" &amp; "J"</b>					
1	Mobilization	1	LS	\$ 30,998.30	\$ 30,998.30
2	Crack Repairs - Small - Detail A1 - Not Mapped (P-101)	1	LS	\$ 30,000.00	\$ 30,000.00
3	Crack Repairs - Medium - Detail A2 (P-101)	1,645	LF	\$ 24.00	\$ 39,480.00
4	Crack Repairs - Large - Detail A3 (P-101)	3,751	LF	\$ 28.00	\$ 105,028.00
5	Hot Mix Asphalt for Detail A2 and Detail A3 Crack Repairs (P-101)	92	TON	\$ 275.00	\$ 25,300.00
6	Pavement Sealing (P-626)	21,750	SY	\$ 4.35	\$ 94,612.50
7	Airfield Yellow Pavement Marking With Beads (P-620)	3,933	SF	\$ 1.50	\$ 5,899.50
8	Airfield Black Pavement Marking With No Beads (P-620)	6,063	SF	\$ 1.00	\$ 6,063.00
9	Surface Painted Holding Position Signs With Beads (P-620)	4	EA	\$ 900.00	\$ 3,600.00
<b>TOTAL TAXIWAY "H" &amp; "J"</b>					<b>\$ 340,981.30</b>
<b>TOTAL CONTRACT</b>					<b>\$ 4,722,055.00</b>

Attachment "C"

INSURANCE PROVISIONS

## **SECTION 1. INSURANCE, DEFENSE, AND INDEMNIFICATION.**

**Bidders' attention is directed to the insurance requirements indicated below. It is highly recommended that bidders confer with their respective insurance carriers or brokers to determine the availability of insurance certificates and endorsements as prescribed and provided herein in advance of bid submission. If an apparent low bidder fails to comply strictly with the insurance requirements, that bidder may be disqualified from award of the Contract.**

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's Bid.

### **1.01 MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, bodily injury, property damage, and personal and advertising injury, with no exclusion for work performed at airport, with limits no less than **\$10,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. If CGL policy has exclusion/s for work performed at airport, then a separate airport liability policy must also be maintained with the same limits and specifications stated in this paragraph.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$5,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Builder's Risk** (Course of Construction) insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.
5. **Surety Bonds** as described below.
6. **Professional Liability** (if Design-Build or Construction Management), with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
7. **Contractor's Pollution Legal Liability** with limits no less than \$2,000,000 per occurrence or claim.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

### **1.02 SELF-INSURED RETENTIONS**

Self-insured retentions must be declared to and approved by the Entity. At the option of the Entity, either: the contractor shall cause the insurer shall reduce or eliminate such self-insured retentions as respects Inyo County, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim

administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County.

### **1.03 OTHER INSURANCE PROVISIONS**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
2. For any claims related to this project, the **Contractor's insurance coverage shall be primary** insurance as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to Inyo County.

### **1.04 BUILDER'S RISK (COURSE OF CONSTRUCTION) INSURANCE**

Contractor may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall **name Inyo County as a loss payee** as their interest may appear.

If the project does not involve new or major reconstruction, at the option of the Entity, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the Entity's site.

### **1.05 CLAIMS MADE POLICIES**

If any coverage required is written on a claims-made coverage form:

1. The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the Entity for review.

If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

#### **1.06 ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to Inyo County.

#### **1.07 WAIVER OF SUBROGATION**

**Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire** from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of Inyo County for all work performed by the Contractor, its employees, agents and subcontractors.

#### **1.08 VERIFICATION OF COVERAGE**

Contractor shall furnish Inyo County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable insurance language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Inyo County before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

#### **1.09 SUBCONTRACTOR**

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

#### **1.10 SURETY BONDS**

Contractor shall provide the following Surety Bonds:

1. Bid bond
2. Performance bond
3. Payment bond
4. Maintenance bond

The Payment Bond and the Performance Bond shall be in a sum equal to the contract price. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the contract is for longer than one year a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

#### **1.11 SPECIAL RISKS OR CIRCUMSTANCES**

Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

#### **1.12 DEFENSE AND INDEMNIFICATION**

Contractor shall defend, indemnify and hold harmless the County, its agents, officers, employees, and volunteers from and against all claims, damages, losses, judgments, liabilities, expenses and other costs,

including attorney's fees, arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the County.

Contractor's obligation to defend, indemnify and hold the County, its agents, officers, employees, and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Contract for the Contractor to procure and maintain a policy of insurance coverage.



# County of Inyo



## Public Works

### CONSENT - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:**

**SUBJECT:** Award construction contract for the Runway Rehabilitation Project at the Lone Pine/Death Valley Airport

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**RECOMMENDED ACTION:**

Request Board: A) award the contract for the Runway Rehabilitation Project at the Lone Pine/Death Valley Airport to Granite Construction Inc. of Bakersfield, CA as the successful bidder; B) approve the construction contract between the County of Inyo and Granite Construction Inc. in the amount of \$1,816,900, and authorize the Chairperson to sign, contingent upon receipt of the forthcoming FAA grant for the Lone Pine/Death Valley Airport Runway Rehabilitation Project and all appropriate signatures being obtained; and C) authorize the Public Works Director to execute all other project contract documents, including contract change orders, to the extent permitted by Public Contract Code Section 20142 and other applicable laws.

**SUMMARY/JUSTIFICATION:**

At the June 11, 2019 meeting of the Board of Supervisors, your Board approved plans and specifications for the Project, and authorized the Public Works Director to advertise the Project for bids. At the same meeting, the Board authorized the Public Works Director to sign the forthcoming Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant Agreement for construction of the Project.

The scope of work for the Project consists primarily of pavement recycling and overlay of Runway 16-34. The project will also include culvert replacement, shoulder grading and pavement markings.

On July 5, 2019 bids were opened for the Project. Three companies submitted the following bids:

Bowman Asphalt Inc., Bakersfield, CA	\$2,004,500
Qualcon Contractors Inc., Minden, NV	\$1,833,900
Granite Construction Inc., Bakersfield, CA	\$1,816,900

All bids were reviewed by the County to determine responsiveness. Granite Construction Inc. was found to be the lowest responsible responsive bidder to the Project bid proposal requirements.

The low bid for this project exceeded the grant amount programmed by the FAA, which was a total project cost of \$1,777,778; however the FAA was able to allocate funds to cover the additional costs.

The FAA grant is anticipated to be awarded on September 19th.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

June 11, 2019 Approval of the Plans and Specifications for the Runway Rehabilitation Project

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to award the bid and construction contract for the Project, this is not recommended because the FAA grant includes State Apportionment funds which may be lost if the contract is not awarded before the end of the federal fiscal year.

**OTHER AGENCY INVOLVEMENT:**

FAA  
California Division of Aeronautics (CDA)

**FINANCING:**

The Project will be funded by the FAA's AIP, which will reimburse the County for ninety percent (90%) of the cost of the Project, and by the CDA's matching grant program, which will reimburse the County for four and one-half percent (4.5%) of the cost of the Project. The reimbursable costs will be paid through budget unit 150504, Lone Pine/Death Valley Airport Pavement, object code 5700, Construction in Progress in the amount of \$1,816,900.

The 19/20 Budget for this project included \$1,777,778; because of the additional award from the FAA, Public Works has brought Agenda Item 26 in the Departmental Agenda, which includes a budget amendment to request the additional funds for this Project.

The County's cost share of this contract will be \$99,929.50, however if State funds are not available, the full match amount could be \$181,690.

In anticipation of this project Public Works budgeted \$50,000 of the contract amount in the Preliminary Budget for Fiscal Year 2019/2020 to cover work completed before budget adoption.

**ATTACHMENTS:**

1. LPDV Runway Rehabilitation\_Granite Contract

**APPROVALS:**

Ashley Helms	Created/Initiated - 8/15/2019
Darcy Ellis	Approved - 8/15/2019
Ashley Helms	Approved - 8/15/2019
Breanne Nelums	Approved - 8/16/2019
Michael Errante	Approved - 8/16/2019
Marshall Rudolph	Approved - 8/16/2019
Amy Shepherd	Approved - 8/19/2019
Michael Errante	Final Approval - 8/19/2019



**AGREEMENT  
BETWEEN THE COUNTY OF INYO AND  
Granite Construction Inc.**

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**for**

**RUNWAY REHABILITATION PROJECT  
AT THE  
LONE PINE/DEATH VALLEY AIRPORT**

**AIRPORT IMPROVEMENT PROGRAM  
FAA AIP PROJECT NO. #3-06-0126-014-2019  
COUNTY PROJECT NO: TR-19-004**

THIS CONTRACT is awarded by the COUNTY OF INYO to CONTRACTOR on and made and entered into effective, \_\_\_\_\_, 2019, by and between the COUNTY OF INYO, a political subdivision of the State of California, (hereinafter referred to as "COUNTY"), and Granite Construction Inc. \_\_\_\_\_ (hereinafter referred to as "CONTRACTOR") for the construction or removal of Runway Rehabilitation Project PROJECT (hereinafter referred to as "PROJECT"), which parties agree, for and in consideration of the mutual promises, as follows:

- I. SERVICES TO BE PERFORMED:** CONTRACTOR agrees at its own expense to furnish all labor, materials, methods, processes, implements, tools, machinery, equipment, transportation, permits, services, utilities, and all other items, and related functions necessary to COUNTY to construct the Project in accordance with the terms of the Grant, as detailed in the COUNTY's REQUEST FOR BIDS *sub nom* "CONTRACT DOCUMENTS", portions of which are attached hereto as Attachment A and all of which is incorporated herein by this reference, as well as in the CONTRACTOR's Response to the Request for Bids, which is attached hereto as Attachment B and incorporated herein by this reference, and complete all work within the time for completion set forth in Attachment A.
- II. TIME OF COMPLETION:** Project work shall begin within 15 calendar days after receipt of the Notice to Proceed (NTP) (or on the start of work date identified in the NTP) and shall continue until all requested services are completed. Said services shall be completed no later than the Time of Completion as noted in the Project's Special Provisions. Procedures for any extension of time shall be complied with as noted in the Project's Special Provisions.
- III. COMPENSATION / CONSIDERATION:** Compensation to be paid to CONTRACTOR for performance of such work shall be in accordance with the schedules for payment set forth in Attachment "B" to this contract. Any payment by COUNTY shall not be deemed a waiver of defects, even if such defects were known to the COUNTY at the time of payment.
- IV. METHOD OF PAYMENT:** CONTRACTOR shall bill by invoice directed to the Director of Public Works or designee describing the work, the charge for the work, and date the work was performed. CONTRACTOR shall provide COUNTY a completed IRS form W-9 before payments will issue from COUNTY. COUNTY will pay the invoice within 30 days of the receipt following normal claims handling procedures.
- V. STANDARD OF PERFORMANCE:** CONTRACTOR represents that he/she is qualified and licensed

to perform the work to be done as required in this Contract. COUNTY relies upon the representations of CONTRACTOR regarding professional and/or trade training, licensing, and ability to perform the services as a material inducement to enter into this Contract. Acceptance of work by the COUNTY does not operate to release CONTRACTOR from any responsibility to perform work to professional and/or trade standards. CONTRACTOR shall provide properly skilled professional and technical personnel to perform all services under this Contract. CONTRACTOR shall perform all services required by this Contract in a manner and according to the standards observed by a competent practitioner of the profession. All work products of whatsoever nature delivered to the COUNTY shall be prepared in a manner conforming to the standards of quality normally observed by a person practicing in CONTRACTOR'S profession and/or trade.

- VI. INDEPENDENT CONTRACTOR:** Nothing contained herein or any document executed in connection herewith, shall be construed to create an employer-employee, partnership or joint venture relationship between COUNTY and CONTRACTOR nor to allow COUNTY to exercise discretion or control over the manner in which CONTRACTOR performs the work or services that are the subject matter of this Agreement; provided, however, the work or services to be provided by CONTRACTOR shall be provided in a manner consistent with reaching the COUNTY'S objectives in entering this Agreement. CONTRACTOR is an independent CONTRACTOR, not an employee of COUNTY or any of its subsidiaries or affiliates. CONTRACTOR will not represent itself to be nor hold itself out as an employee of COUNTY. CONTRACTOR acknowledges that it shall not have the right or entitlement in or to any of the pension, retirement or other benefit programs now or hereafter available to COUNTY'S employees. The consideration set forth in Sections IV and V above shall be the sole consideration due CONTRACTOR for the services rendered hereunder. It is understood that COUNTY will not withhold any amounts for payment of taxes from CONTRACTOR'S compensation hereunder. Any and all sums due under any applicable state, federal or municipal law or union or professional and/or trade guild regulations shall be CONTRACTOR'S sole responsibility. CONTRACTOR shall indemnify and hold COUNTY harmless from any and all damages, claims and expenses arising out of or resulting from any claims asserted by any third party, including but not limited to a taxing authority, as a result of or in connection with payments due it from CONTRACTOR'S compensation.
- VII. ASSIGNMENT AND SUBCONTRACTING.** The parties recognize that a substantial inducement to County for entering into this Contract is the professional reputation, experience and competence of Contractor. Assignments of any and/or all rights, duties or obligations of the Contractor under this Contract will be permitted only with the express consent of the County. Contractor shall not subcontract any portion of the work to be performed under this Contract without the written authorization of the County. If County consents to such subcontract, Contractor shall be fully responsible to County for all acts or omissions of the subcontractor. Nothing in this Contract shall create any contractual relationship between County and subcontractor, nor shall it create any obligation on the part of the County to pay any monies due to any such subcontractor, unless otherwise required by law.
- VIII. CLAIMS RESOLUTION:** Pursuant to **Section 9204 of the Public Contract Code**, any and all claims submitted by the CONTRACTOR to COUNTY will follow the provisions as set forth in the Project's County Provisions section.
- IX. INSURANCE INDEMNIFICATION.** Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses, including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the County.

- X. POLITICAL REFORM ACT.** Contractor is not a designated employee within the meaning of the Political Reform Act because Contractor:
1. Will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the County or of any County official, other than normal Contract monitoring; and
  2. Possesses no authority with respect to any County decision beyond rendition of information, advice, recommendation or counsel [FPPC Reg. 18700(a)(2)].
- XI. COMPLIANCE WITH ALL LAWS.** Contractor shall use the standard of care in its profession and/or trade to comply with all applicable federal, state and local laws, codes, ordinances and regulations that relate to the work or services to be provided pursuant to this Contract.
1. **Safety Training:** Contractor shall provide such safety and other training as needed to assure work will be performed in a safe and healthful manner "in a language" that is understandable to employees receiving the training. The training shall in all respects be in compliance with CAL OSHA. Contractor working with employees shall maintain a written Injury and Illness Prevention (IIP) Program, a copy of which must be maintained at each worksite or at a central worksite identified for the employees, if the Contractor has non-fixed worksites. Contractor using subcontractors with the approval of the County to perform the work which is the subject of this Contract shall require each subcontractor working with employees to comply with the requirements of this section.
  2. **Child, Family and Spousal Support Reporting Obligations:** Contractor shall comply with the state and federal child, family and spousal support reporting requirements and with all lawfully served wage and earnings assignment orders or notices of assignment relating to child, family and spousal support obligations.
  3. **Nondiscrimination:** Contractor shall not discriminate in employment practices or in the delivery of services on the basis of membership in a protected class which includes any class recognized by law and not limited to race, color, religion, sex (gender), sexual orientation, marital status, national origin (Including language use restrictions), ancestry, disability (mental and physical, including HIV and Aids), medical Conditions (cancer/genetic characteristics), age (40 and above) and request for family care leave. Contractor represents that it is in compliance with federal and state laws prohibiting discrimination in employment and agrees to stay in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. sections 12101, et. seq.), Age Discrimination in Employment Act of 1975 (42 U.S.C. 5101, et. seq.), Title VII (42 U.S.C. 2000, et. seq.), the California Fair Employment Housing Act (California Government Code sections 12900, et. seq.) and regulations and guidelines issued pursuant thereto.
- XII. LICENSES:** CONTRACTOR represents and warrants to COUNTY that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of CONTRACTOR to practice its trade and/or profession. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Contract, any licenses, permits, insurance and approvals which are legally required of CONTRACTOR to practice its and/or profession.
- XIII. PREVAILING WAGE:** Pursuant to Section 1720 et seq. of the Labor Code, CONTRACTOR agrees to comply with the Department of Industrial Relations regulations, to which this Contract is subject, the

prevailing wage per diem rates in Inyo County have been determined by the Director of the State Department of Industrial Relations. These wage rates appear in the Department publication entitled "General Prevailing Wage Rates," in effect at the time the project is advertised. Future effective wage rates, which have been predetermined and are on file with the State Department of Industrial Relations are referenced but not printed in said publication. Such rates of wages are also on file with the State Department of Industrial Relations and the offices of the Public Works Department of the County of Inyo and are available to any interested party upon request. CONTRACTOR agrees to submit certified payroll to COUNTY and comply with the Department of Industrial Relations regulations in submitting the certified payroll.

**XIV. CONTROLLING LAW VENUE:** This Contract is made in the County of Inyo, State of California. The parties specifically agree to submit to the jurisdiction of the Superior Court of California for the County of Inyo.

**XV. WRITTEN NOTIFICATION:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, et cetera, shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to COUNTY: County of Inyo  
Public Works Department  
Attn: Ashley Helms  
168 N. Edwards  
PO Drawer Q Independence, CA 93526

If to CONTRACTOR: Granite Construction Inc.  
Attn: Kevin Parsons  
3005 James Road  
Bakersfield, CA 93308

**XVI. AMENDMENTS.** This Contract may be modified or amended only by a written document executed by both Contractor and County and approved as to form by Inyo County Counsel.

**XVII. WAIVER.** No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

**XVIII. TERMINATION.** This Contract may be terminated for the reasons stated below:

1. Immediately for cause, if either party fails to perform its responsibilities under this Contract in a timely and professional manner and to the satisfaction of the other party or violates any of the terms or provisions of this Contract. If termination for cause is given by either party to the other and it is later determined that the other party was not in default or default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph "b" of this section; or
2. By either party without cause upon fifteen (15) days' written notice of termination. Upon termination, Contractor shall be entitled to compensation for services performed up to the effective date of termination; or
3. By County upon oral notice from the Board of Supervisors based on funding ending or

being materially decreased during the term of this Contract.

- XIX. SEVERABILITY.** If any provision of this Contract is held to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall not be affected, impaired or invalidated.
- XX. CONTRACT SUBJECT TO APPROVAL BY BOARD OF SUPERVISORS.** It is understood and agreed by the parties that this Contract is subject to the review and approval by the Inyo County Board of Supervisors upon Notice and Public Hearing. In the event that the Board of Supervisors declines to enter into or approve said Contract, it is hereby agreed to that there is, in fact, no binding agreement, either written or oral, between the parties herein.
- XXI. TIME IS OF THE ESSENCE.** Time is of the essence for every provision in this Agreement.
- XXII. ALL PROVISIONS SET FORTH HEREIN:** CONTRACTOR and COUNTY agree that this Contract shall include and consist of:
1. All provisions set forth expressly herein;
  2. The Bid Proposal Forms, the Faithful Performance Bond, and the Labor and Materials Payment Bond, all of which are incorporated herein and made a part of this contract by reference; and
  3. All other contract documents, as described in **Section 5-1.02, "Contract Components"**; for the purpose of this Contract, Special Provisions includes:
    - a. County Provisions;
    - b. General Provisions;
    - c. Federal Provisions;
    - d. Special Provisions; and
    - e. Technical Specifications.
- XXIII. EXECUTION.** This Contract may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties. In approving this Contract, it shall not be necessary to produce or account for more than one such counterpart.

**XXIV. REQUIRED FEDERAL PROVISIONS**

**A. ACCESS TO RECORDS AND REPORTS:** The CONTRACTOR must maintain an acceptable cost accounting system. The CONTRACTOR agrees to provide the Owner, 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 CONTRACTOR which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The CONTRACTOR 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.

**B. BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the CONTRACTOR or its 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.

Owner will provide CONTRACTOR written notice that describes the nature of the breach and corrective actions the CONTRACTOR must undertake in order to avoid termination of the contract. Owner reserves

the right to withhold payments to CONTRACTOR until such time the CONTRACTOR corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the CONTRACTOR must correct the breach. Owner may proceed with termination of the contract if the CONTRACTOR fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

### **C. GENERAL CIVIL RIGHTS PROVISIONS**

The CONTRACTOR agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the CONTRACTOR and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

### **D. CIVIL RIGHTS – TITLE VI ASSURANCE**

#### **Compliance with Nondiscrimination Requirements:**

During the performance of this contract, the CONTRACTOR, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONTRACTOR"), agrees as follows:

1. **Compliance with Regulations:** The CONTRACTOR (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The CONTRACTOR, with regard to the work performed by it during the contract, will 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 CONTRACTOR will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the CONTRACTOR for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the CONTRACTOR of the CONTRACTOR's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The CONTRACTOR will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will 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 to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish the information, the CONTRACTOR will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a CONTRACTOR's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the CONTRACTOR under the contract until the CONTRACTOR complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The CONTRACTOR will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The CONTRACTOR will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the CONTRACTOR becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the CONTRACTOR may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the CONTRACTOR may request the United States to enter into the litigation to protect the interests of the United States.

#### **Title VI List of Pertinent Nondiscrimination Acts and Authorities**

During the performance of this contract, the CONTRACTOR, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONTRACTOR") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and CONTRACTORS, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

**E. CLEAN AIR AND WATER POLLUTION CONTROL**

CONTRACTOR agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The CONTRACTOR agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

CONTRACTOR must include this requirement in all subcontracts that exceeds \$150,000.

**F. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

1. **Overtime Requirements:** No CONTRACTOR or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. **Violation; Liability for Unpaid Wages; Liquidated Damages:** In the event of any violation of the clause set forth in paragraph (1) of this clause, the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.
3. **Withholding for Unpaid Wages and Liquidated Damages:** The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime CONTRACTOR, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph



(2) of this clause.

4. **Subcontractors:** The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

#### **G. COPELAND “ANTI-KICKBACK” ACT**

CONTRACTOR must comply with the requirements of the Copeland “Anti-Kickback” Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. CONTRACTOR and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The CONTRACTOR and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

#### **H. DAVIS-BACON REQUIREMENTS**

##### **1. Minimum Wages.**

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the CONTRACTOR and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the CONTRACTOR and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the CONTRACTOR and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the CONTRACTOR, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the CONTRACTOR shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the CONTRACTOR does not make payments to a trustee or other third person, the CONTRACTOR may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the CONTRACTOR, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the CONTRACTOR to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2. Withholding.

The Federal Aviation Administration or the sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the CONTRACTOR under this contract or any other Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime CONTRACTOR, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the CONTRACTOR or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the CONTRACTOR, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

### 3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the CONTRACTOR during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the CONTRACTOR shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. CONTRACTORS employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The CONTRACTOR shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the CONTRACTOR will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.* the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm) or its successor site. The prime CONTRACTOR is responsible for the submission of copies of payrolls by all subcontractors. CONTRACTORS and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the CONTRACTOR will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the CONTRACTOR, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime CONTRACTOR to require a subcontractor to provide addresses and social security numbers to the prime CONTRACTOR for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the CONTRACTOR or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the CONTRACTOR or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The CONTRACTOR or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the CONTRACTOR or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the CONTRACTOR, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the CONTRACTOR as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a CONTRACTOR is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the CONTRACTOR's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the CONTRACTOR will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the CONTRACTOR will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

#### 5. Compliance with Copeland Act Requirements.

The CONTRACTOR shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

#### 6. Subcontracts.

The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

#### 7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a CONTRACTOR and a subcontractor as provided in 29 CFR 5.12.

#### 8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

#### 9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include

disputes between the CONTRACTOR (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### 10. Certification of Eligibility.

(i) By entering into this contract, the CONTRACTOR certifies that neither it (nor he or she) nor any person or firm who has an interest in the CONTRACTOR's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

#### **I. TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the CONTRACTOR to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The CONTRACTOR must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

#### **J. ENERGY CONSERVATION REQUIREMENTS**

CONTRACTOR and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201et seq).

#### **K. EQUAL OPPORTUNITY CLAUSE**

During the performance of this contract, the CONTRACTOR agrees as follows:

(1) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The CONTRACTOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this section and

shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

#### **L. CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **M. PROHIBITION OF SEGREGATED FACILITIES**

- (a) The CONTRACTOR agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The CONTRACTOR agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.
- (b) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
- (c) The CONTRACTOR shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

#### **N. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

#### **O. PROCUREMENT OF RECOVERED MATERIALS**

CONTRACTOR and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the CONTRACTOR and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
- 2) The CONTRACTOR has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at [www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products](http://www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products).

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the CONTRACTOR can demonstrate the item is:



- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

**P. CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS**

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

**Certifications**

- 1) The applicant represents that it is (  ) is not (  ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is (  ) is not (  ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

**Note**

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government’s interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency’s SDO to facilitate completion of the required considerations before award decisions are made.

**Term Definitions**

**Felony conviction:** Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

**Q. TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)**

The Owner may terminate this contract in whole or in part at any time by providing written notice to the CONTRACTOR. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the CONTRACTOR shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. CONTRACTOR must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay CONTRACTOR for:

- 3) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- 4) documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
- 5) reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- 6) reasonable and substantiated expenses to the CONTRACTOR directly attributable to Owner's termination action.

Owner will not pay CONTRACTOR for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

## **R. VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the CONTRACTOR and all sub-tier CONTRACTORS must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

**XXV. ENTIRE AGREEMENT:** This Contract, including the Contract Documents and all other documents which are incorporated herein by reference, constitutes the complete and exclusive agreement between the County and Contractor. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Contract. If any provision of this agreement is held to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall not be affected, impaired or invalidated.

**XXVI. ATTACHMENTS:** All attachments referred to are incorporated and made a part of this agreement. Attachments include:

Attachment "A:" COUNTY OF INYO RELVANT PORTIONS OF REQUEST FOR BIDS

Attachment "B:" RESPONSE TO COUNTY OF INYO REQUEST FOR BIDS

Attachment "C:" INSURANCE PROVISIONS

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

**COUNTY OF INYO**

**CONTRACTOR**

\_\_\_\_\_  
Rick Pucci, Board Chair

\_\_\_\_\_  
[ \_\_\_\_\_ ], Title

APPROVED AS TO FORM  
AND LEGALITY

ATTEST: CLINT QUILTER  
County Clerk  
Board of Supervisors

By \_\_\_\_\_  
Inyo County Counsel

By: \_\_\_\_\_

APPROVEE AS TO INSURANCE  
REQUIREMENTS:

By \_\_\_\_\_  
Inyo County Risk Manager

Attachment "A"

RELEVANT PORTIONS OF REQUEST FOR BID

**SPECIAL PROVISIONS**  
**RUNWAY PAVEMENT REHABILITATION**  
**LONE PINE/DEATH VALLEY AIRPORT**  
**FAA AIP PROJECT NO. #3-06-0126-013-2018 DESIGN**  
**FAA AIP PROJECT NO. #3-06-0126-014-2019 CONSTRUCTION**  
**COUNTY PROJECT NO. TR-19-004**

1. LOCATION AND GENERAL DESCRIPTION OF THE WORK. The work to be done under this contract is located at the Lone Pine/Death Valley Airport, Lone Pine, California. The overall objective of the work is rehabilitation of the airport runway.

More specifically, the project consists of subgrade preparation and compaction, full depth reclamation (FDR) of the existing asphalt pavements and base, asphalt surface course, paint marking, and culvert removal and replacement.

The scope of the work is shown on the "Construction Layout Plan".

The paved and dirt runways will be closed during construction. The apron and helicopter area will remain open.

2. TIME OF COMPLETION, SEQUENCE OF WORK SCHEDULES & MEETINGS. The Contractor shall complete all the work under the base bid within 60 calendar days from the date of notice to proceed. This schedule includes pavement curing time prior to paint marking.

The paved and dirt runways will be closed during construction and the apron and helicopter area will remain open, in accordance with the Construction Closure & Safety Plan. All work shall be performed in daylight unless approved otherwise by the Engineer. The Contractor may make submittals at any time after notification of award to expedite his ordering materials and commencing the work in an efficient manner. The Contractor's schedule submittals shall strive to consolidate work efforts and multi-task work items to the extent possible in order to expedite completion of the project and avoid the necessity of acceptance testing and inspection during periods of relatively minor activity. The contract time allows for procurement, delivery, and installation of all systems.

Within 10 days of the Notice to Proceed and every two weeks thereafter, the Contractor shall submit to the Engineer (in Microsoft Project format) baseline, monthly updated, and final updated schedules, each consistent in all respects with the time and order of work requirements of the contract. Work must be executed in the sequence indicated on the current accepted schedule.

Schedules must show the order in which the Contractor proposes to prosecute the work with logical links between time-scaled work activities and calculations made using the critical path method to determine the controlling activities. The Contractor is responsible for assuring that all activity sequences are logical and that each schedule shows a coordinated plan for complete performance of the work.

The Engineer will schedule the preconstruction meeting prior to issuing the Notice to Proceed to the Contractor. The Engineer will prepare an agenda for the preconstruction meeting and take minutes.

The Contractor shall be available to attend weekly progress meetings, if scheduled and determined by the Engineer to be necessary. The meeting shall be attended by the Contractor's job foreman, safety officer, and representative of the subcontractors actively working or beginning to work at the time of the meeting.

The preparation of schedules and attendance at meetings shall be considered as included in

Mobilization and no additional compensation will be allowed therefor.

3. LIQUIDATED DAMAGES. Liquidated damages, for failure to complete the work within the time for completion specified for any or all construction phases shall be three thousand dollars (\$3,000.00) per calendar day.
4. ASSIGNMENT. In entering this contract or a subcontract to this contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C.A. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this works contract or a subcontract. This assignment shall be made and become effective at the time the Owner tenders final payment to the Contractor without further acknowledgment by the parties.
5. PREVAILING WAGES AND TRAVEL AND SUBSISTENCE PAYMENTS. A copy of the determination of the general prevailing rates of per diem wages and general prevailing wages for holiday and overtime work in the locality in which the work is to be performed is on file at the Owner's offices. Contractor and any subcontractors will not pay less than the specified prevailing rates of wages to all workers employed in the execution of the contract. The Contractor will pay at least the minimum of state or federal wages, whichever is the greater.

Contractor will post one copy of the prevailing rates of wages at the job site. For each calendar day or portion thereof, and for each worker paid less than the stipulated prevailing rates for such work or craft in which the workman is employed or any public work done under the contract by him, or any subcontractor under him, Contractor shall forfeit the sum of \$50.00 as penalty to the Owner.

Travel and subsistence payments shall be paid to each worker needed to execute the work and such payments are defined in the applicable collective bargaining agreements filed with the Department of Industrial Relations for the particular craft, classification or type of work involved.

6. HOURS OF WORK. Eight hours labor constitutes a legal day's work pursuant to this contract. The time of service of any worker employed upon the project is limited and restricted to eight hours during any one calendar day and forty hours during any one calendar week unless said employee is compensated at a rate of one and one-half times the basic rate of pay for all times in excess of the foregoing hours. The Contractor and the Subcontractors shall not work more than 8 hours per day unless approved otherwise by the Engineer. If the Contractor schedule requires overtime observation or acceptance testing by the Engineer or Owner staff, the cost for additional payment to the Engineer and Owner for the Engineer's and Owner's overtime shall be deducted from payments to the Contractor. The Engineer shall be the sole judge of these hours and costs.

Contractor shall keep and make available and accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by the Contractor or any subcontractor in connection with the project.

Contractor shall, as a penalty, forfeit \$25.00 for each worker employed in execution of the contract by Contractor or by any subcontractor for each calendar day during that such worker is required or permitted to work more than eight hours in any one calendar day or forty hours in any one calendar week in violation of this section.

7. ACTS OF GOD. Contractor shall not be responsible for the cost of repairing or restoring damages to the work which exceeds 5% of the contract price and which damage is determined to have been proximately caused by an act of God, provided that the work damaged is built in accordance with accepted and applicable building standards and the plans and specifications of

the Owner. As used herein, the term "acts of God" includes only earthquakes in excess of the magnitude of 3.5 on the Richter Scale and tidal waves.

8. CERTAIN CLAIMS. Notwithstanding the foregoing, any demand of \$375,000, or less, by the Contractor for a time extension; payment of money or damages arising from the work done by or on behalf of the Contractor pursuant to this contract; or payment of an amount which is disputed by the Owner shall be processed in by informal conferences, non-binding judicially supervised mediation and judicial arbitration.

A single written claim shall be filed under this section prior to the date of final payment for all demands arising out of the contract.

Within thirty (30) days of the receipt of the claim, the Owner may request additional documentation supporting the claim or relating to defenses or claims the Owner may have against the Contractor. If the amount of the claim is less than \$50,000, the Contractor shall respond to the request for additional information within fifteen (15) days after receipt of the request. The Contractor shall respond to the request within thirty (30) days of receipt if the amount of the claim exceeds \$50,000 but is less than \$375,000.

Unless further documentation is requested, the Owner shall respond to the claim within forty-five (45) days if the amount of the claim is less than \$50,000 or within sixty (60) days if the amount of the claim is more than \$50,000, but less than \$375,000. If further documentation is requested, the Owner shall respond within the same amount of time taken by the Contractor to respond or fifteen (15) days, whichever is greater, after receipt of further information if the claim is less than \$50,000. If the claim is more than \$50,000 but less than \$375,000 and further documentation is requested by the Owner, the Owner shall respond within the same amount of time taken by the Contractor to respond or thirty (30) days, whichever is greater.

If the Contractor disputes the Owner's response, or the Owner fails to respond, the Contractor may demand an informal conference to meet and confer for settlement of the issues in dispute. The demand shall be served on the Owner within fifteen (15) days after the deadline of the Owner to respond or within fifteen (15) days of the Owner's response, whichever occurs first. The Owner shall schedule the meet and confer conference within thirty (30) days of the request.

If the meet and confer conference does not produce a satisfactory request, the Contractor may pursue remedies authorized by law.

9. CONSTRUCTION MEANS AND SAFETY. Wadell Engineering Corporation, its subconsultants, and the Owner are not responsible for the construction means, methods, techniques, sequences, and safety at the site. These items are the sole responsibility of the Contractor. The Contractor shall comply with applicable portions of the attached FAA Advisory Circular 150/5370-2G, "Operational Safety on Airports During Construction".
10. PUBLIC SAFETY AND CONVENIENCE. The Contractor shall use every reasonable precaution to safeguard persons and property including the general public. It shall be the sole responsibility of the Contractor to procure, place and maintain four yellow runway closure crosses and eight water filled barricades with lights, and to furnish and maintain any other barriers, temporary construction fences, lights, and danger signals as are necessary to protect persons and property near the work site. All barricades and obstructions shall be protected at night by lights, which shall be suitably distributed and kept illuminated from sunset to sunrise. Lights shall be of a type acceptable to the Engineer with 360-degree visibility. Runway crosses and barricades shall become the property of the Owner upon completion and shall be stored on site as approved by the Engineer.

In the event of interruption to domestic water, sewer, storm drain, or to other utility services as a result of accidental breakage, or as a result of being exposed or unsupported, the Contractor

shall promptly notify the proper authority. The Contractor shall cooperate with said authority in restoration of service as promptly as possible and bear all costs of repair. In no case shall interruption of any water or utility service be allowed to exist outside working hours unless prior approval is received.

Neither the owner nor its officers or agents or Wadell Engineering Corporation shall be responsible to the Contractor for damages as a result of the location of the underground utilities being other than that shown on the plans or for the existence of underground utilities not shown on the plans. The Contractor shall seek and mark utilities within the work area prior to excavation or opening ground surfaces. The Contractor shall retain, utilize and compensate a private USA company for utility marking prior to any digging.

11. FIRE PREVENTION AND PROTECTION. The Contractor shall perform all work in a fire-safe manner. He shall supply and maintain on the site adequate fire-fighting equipment capable of extinguishing incipient fires. The Contractor shall comply with applicable local and state fire prevention regulations.
12. PROTECTION OF UTILITIES, CABLES, NAVAIDS, AND WEATHER BUREAU FACILITIES. The Contractor is hereby informed that there are public utility, airport private utility and weather reporting facilities on the airport. It is the Contractor's responsibility to find and protect such facilities. The Contractor shall conduct private USA utility searches within work areas, in particular the terminal area and near airport lighting and weather facilities to prevent damage to systems. The cost is considered included in the cost of all subgrade preparation and underground work, and is not subject to separate payment.
13. CONSTRUCTION LAYOUT AND STAKES. The Contractor shall furnish all stakes for the layout and construction of the work. The Contractor shall satisfy himself as to the accuracy of all measurements before constructing any permanent structure. No staking will be provided by the Engineer. The Contractor's layout for paint markings shall be done at the direction of an on-site California licensed professional land surveyor.

No separate measurement and payment will be made for establishing and maintaining construction layout stakes required under this Contract. The cost for this construction layout staking shall be considered to be included in the various contract prices for which construction layout staking is required.
14. TEMPORARY ELECTRIC POWER. The Contractor shall make his own arrangements for electric power for use during construction. The Contractor shall compensate the Owner at Owner determined rates for any use of Owner power.
15. SANITARY FACILITIES. The Contractor shall provide and maintain sanitary facilities for his employees and his subcontractor's employees that will comply with the regulations of the local and state departments of health and as directed by the Engineer.
16. WATER & WATERING. The Contractor shall furnish and apply water required in the compaction of embankments, subgrades, subbases, base courses, dust control, and for other purposes in accordance with the requirements of these specifications or as directed by the Engineer. Water, when required, shall be applied at the locations, in the amounts, and during the hours as directed by the Engineer. The Contractor shall make all arrangements and shall bear all expenses for furnishing of water supply including adequate equipment of ample capacity to ensure uniform application of water in the amounts directed by the Engineer.

The performance of this item, including provision of all water, shall be considered incidental to the other contract items and, therefore, no direct payment for water shall be made.



17. HAUL ROUTES, ROUTE MAINTENANCE, AND DUST CONTROL. Construction equipment shall follow the routes if shown on the plans unless the Engineer approves other routes.

The Contractor shall perform all necessary maintenance of routes during construction and shall perform all work as necessary to restore the routes used by his equipment to their original condition at the conclusion of construction. Damage to existing paved and unpaved areas shall be repaired promptly and to the sole satisfaction of the Engineer. Pavement damage repairs shall include milling, compaction and repaving as directed by the Engineer. The Contractor is hereby notified that heavy truck usage of the airport pavements and roads likely will result in the requirement for repairs. Such repairs shall be at no cost to the Owner.

Dust control methods and means shall be designed and implemented by the Contractor to assure that dust from the project and support areas shall not spread to adjacent on airport tenants and parking areas or to off-airport properties. The economic value of damage to aircraft and aircraft maintenance facilities and activities can occur even by light dusting, which may result in claims and civil litigation. Haul routes shall be sprinkled with water as necessary to prevent dust diffusion during the course of the work.

All maintenance and restoration work shall be completed to the Engineer's satisfaction before final payment is awarded.

18. WORK IN AIR OPERATIONS AREAS. Employee vehicle parking is confined to the Contractor's area shown on the plans. This project requires work in and adjacent to aircraft operations areas. When the Contractor enters air operations areas the following apply:

The Contractor shall provide a knowledgeable flag person with aviation radio to prevent vehicle incursions and access to operations areas including crossings of runways and taxiways.

FAA-approved orange and white checkered flags shall be provided by the Contractor on all vehicles. No vehicles are allowed within 25 feet of a parked aircraft or within 40 feet of a moving aircraft.

Workmen on foot shall remain at least 150 feet back from the edge of an operational runway, unless cleared through a radio operator who then maintains a watch over the operation. Workmen on or within 50 feet of an active runway or taxiway shall wear orange safety vests at all times.

In the event of an emergency, men and equipment shall be moved immediately at the direction of the Engineer.

Normally, work will not be permitted in the air operations area between the hours 2000 to 0600. If an emergency situation requires work during these hours, the Contractor shall notify the Engineer as far in advance as possible and obtain clearance from him before proceeding to work. During night operations, each vehicle shall be equipped with an omni-directional amber flashing light mounted on the roof of the cab. Headlights, taillights and flashers shall be used for all activities during these hours.

19. HAZARD LIGHTING OF CONSTRUCTION AREAS. In the area of construction as shown on the plans and in accordance with the construction schedule, the Contractor shall outline access routes to the construction area and the construction area itself by the use of suitable lighted barricades.

Construction equipment that extends 15 feet or more above ground level shall be cleared through the Engineer and shall be lighted at night in an approved manner and/or lowered to height of adjacent structural surroundings at the discretion of the Engineer.

20. **CLEANUP DURING THE WORK.** The Contractor shall at all times during the work keep the premises clean and orderly. He shall promptly remove all waste materials and rubbish. All directions from the Engineer and other authorized public officials having jurisdiction over health and safety shall be obeyed.

Whenever the Contractor is hauling material or debris on or across roadways, auto parking, aircraft aprons, taxiways, or runways, he shall take all necessary precautions to prevent any spillage or dropping of material or debris from his haul vehicles. If and when such spills occur, the Contractor shall be especially diligent in promptly cleaning them up. It is emphasized that even the smallest spills of rock or debris may be hazardous to automobiles and aircraft until cleaned up.

21. **SITE RESTORATION AND CLEANUP.** Upon completion of the project, all areas used by the Contractor in connection with the work shall be properly cleared of all temporary structures, rubbish, and waste materials and the areas shall be properly graded to drain and blend in with the abutting property. Any waste area obtained by the Contractor for deposit of waste materials shall be finished to properly drain and blend with the surrounding terrain.

22. **CONTRACTOR PERFORMANCE AND COOPERATION.** The Owner relies on prompt and efficient execution of the project and closeout of the contract. Contractor non-responsiveness or mismanagement that results in delay to the Engineer adversely impacts the Owner's ability to perform compliance inspections, complete the project accounting and finish the project. The Contractor will be deemed non-responsive or un-cooperative in the event the Contractor does not furnish (1) daily receipts for delivered materials (where applicable such as aggregate base and asphaltic concrete), (2) prompt progress and final payment requests, (3) prompt Contractor test results for quality control, (4) complete and accurate "as-built" markup drawings for the completed work.

The Engineer shall not allow payment for materials delivered without an applicable load receipt submitted to the Engineer on the day of delivery. The Contractor shall have 14 calendar days from completion of the final punch list work to submit "as-built" markups and the final payment request.

Delays to the Engineer due to the Engineer's determination of non-responsiveness by the Contractor shall be back charged against monies due the Contractor at the rate of \$2,000 per engineer day. Such charges are in addition to liquidated damages.

#### **END OF SPECIAL PROVISIONS**

Attachment "B"

RESPONSE TO REQUEST FOR BID

# Granite Construction

**RUNWAY PAVEMENT REHABILITATION PROJECT  
LONE PINE / DEATH VALLEY AIRPORT  
AIP PROJECT NO. 3-06-0126-13-2018 DESIGN  
AIP PROJECT NO. 3-06-0126-14-2019 CONSTRUCTION  
COUNTY PROJECT NO. TR-19-004  
BID FORM ADDENDUM # 1**

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT OF MEASURE	CONTRACTOR BID	
				UNIT PRICE	ITEM TOTAL
<b>SCHEDULE A: AIRFIELD PAVEMENT REHABILITATION</b>					
1	Mobilization (M-105) (5% Max of This Schedule)	1	LS	90,000 <sup>-</sup>	\$ 90,000 <sup>-</sup>
2	Contractor Quality Control Program (C-100)	1	LS	100,000 <sup>-</sup>	\$ 100,000 <sup>-</sup>
3	Culvert Removal & Replacement Station 10+19 (D-701)	1	LS	38,000 <sup>-</sup>	\$ 38,000 <sup>-</sup>
4	Culvert Removal & Replacement Station 20+13 (D-701)	1	LS	38,000 <sup>-</sup>	\$ 38,000 <sup>-</sup>
5	Culvert Removal & Replacement Station 24+64 (D-701)	1	LS	38,000 <sup>-</sup>	\$ 38,000 <sup>-</sup>
6	Culvert Removal & Replacement Station 28+42 (D-701)	1	LS	38,000 <sup>-</sup>	\$ 38,000 <sup>-</sup>
7	Culvert Removal and Replacement With Twin Parallel 15" Class V RCP With 6" Lateral Separation at Station 33+61 (D-701)	1	LS	54,000 <sup>-</sup>	\$ 54,000 <sup>-</sup>
8	FDR Existing Pavement (P-207)	26,620	SY	10 <sup>00</sup>	\$ 266,200 <sup>-</sup>
9	5% Cement for FDR Processing (P-207)	550	TON	200 <sup>00</sup>	\$ 110,000 <sup>-</sup>
10	0.25' Plant Mix Bituminous Pavement (P-403)	4,800	TON	200 <sup>00</sup>	\$ 960,000 <sup>-</sup>
11	Shoulder Grading Pavement Edge To Lights (10' +/-) with Native Material 95% (P-152)	9,400	SY	5 <sup>00</sup>	\$ 47,000 <sup>-</sup>
12	Airfield White Pavement Marking With Beads (P-620)	11,250	SF	2 <sup>50</sup>	\$ 28,125 <sup>-</sup>
13	Airfield Yellow Pavement Marking With Beads (P-620)	30	SF	2 <sup>50</sup>	\$ 75 <sup>-</sup>
14	Airfield Black Pavement Marking With No Beads (P-620)	3,800	SF	2 <sup>50</sup>	\$ 9,500 <sup>-</sup>
<b>TOTAL SCHEDULE A: AIRFIELD PAVEMENT REHABILITATION</b>					<b>\$ 1,816,900<sup>-</sup></b>

Attachment "C"

INSURANCE PROVISIONS

## **SECTION 1. INSURANCE, DEFENSE, AND INDEMNIFICATION.**

**Bidders' attention is directed to the insurance requirements indicated below. It is highly recommended that bidders confer with their respective insurance carriers or brokers to determine the availability of insurance certificates and endorsements as prescribed and provided herein in advance of bid submission. If an apparent low bidder fails to comply strictly with the insurance requirements, that bidder may be disqualified from award of the Contract.**

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's Bid.

### **1.01 MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, bodily injury, property damage, and personal and advertising injury, with no exclusion for work performed at airport, with limits no less than **\$10,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. If CGL policy has exclusion/s for work performed at airport, then a separate airport liability policy must also be maintained with the same limits and specifications stated in this paragraph.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$5,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Builder's Risk** (Course of Construction) insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.
5. **Surety Bonds** as described below.
6. **Professional Liability** (if Design-Build or Construction Management), with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
7. **Contractor's Pollution Legal Liability** with limits no less than \$2,000,000 per occurrence or claim.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

### **1.02 SELF-INSURED RETENTIONS**

Self-insured retentions must be declared to and approved by the Entity. At the option of the Entity, either: the contractor shall cause the insurer shall reduce or eliminate such self-insured retentions as respects Inyo County, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim

administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County.

### **1.03 OTHER INSURANCE PROVISIONS**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
2. For any claims related to this project, the **Contractor's insurance coverage shall be primary** insurance as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to Inyo County.

### **1.04 BUILDER'S RISK (COURSE OF CONSTRUCTION) INSURANCE**

Contractor may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall **name Inyo County as a loss payee** as their interest may appear.

If the project does not involve new or major reconstruction, at the option of the Entity, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the Entity's site.

### **1.05 CLAIMS MADE POLICIES**

If any coverage required is written on a claims-made coverage form:

1. The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the Entity for review.

If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

## **1.06 ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to Inyo County.

## **1.07 WAIVER OF SUBROGATION**

**Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire** from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of Inyo County for all work performed by the Contractor, its employees, agents and subcontractors.

## **1.08 VERIFICATION OF COVERAGE**

Contractor shall furnish Inyo County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable insurance language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Inyo County before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

## **1.09 SUBCONTRACTOR**

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

## **1.10 SURETY BONDS**

Contractor shall provide the following Surety Bonds:

1. Bid bond
2. Performance bond
3. Payment bond
4. Maintenance bond

The Payment Bond and the Performance Bond shall be in a sum equal to the contract price. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the contract is for longer than one year a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

## **1.11 SPECIAL RISKS OR CIRCUMSTANCES**

Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

## **1.12 DEFENSE AND INDEMNIFICATION**

Contractor shall defend, indemnify and hold harmless the County, its agents, officers, employees, and volunteers from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including attorney's fees, arising out of the performance of the work described herein, caused in whole or



in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the County.

Contractor's obligation to defend, indemnify and hold the County, its agents, officers, employees, and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Contract for the Contractor to procure and maintain a policy of insurance coverage.

**1.13                    CONTRACTOR'S LIABILITY NOT LIMITED BY INSURANCE**

Nothing contained in the insurance requirements applicable to the Contractor pursuant to this Contract shall be construed as limiting the liability of the Contractor or the Contractor's Sureties.



# County of Inyo



## Public Works - Road Dept.

### CONSENT - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Trevor Taylor

**SUBJECT:** Temporary Closure of Portions of Tu-Su Lane, Diaz Lane, and North Barlow Lane for the California Indian Day Parade

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**RECOMMENDED ACTION:**

Request Board approve the closure of portions of Tu-Su Lane, Diaz Lane, and North Barlow Lane on Friday, September 27, 2019 between the hours of 9:00 a.m. and 12:30 p.m.

**SUMMARY/JUSTIFICATION:**

On Friday, September 27th, 2019, the Bishop Paiute Tribe plans to hold their annual parade celebrating California Indian Day and has requested the closure of portions of Tu-Su Lane, Diaz Lane, and North Barlow Lane for the event. The 0.8 mile parade will begin at the Bishop Paiute Tribal Office at 50 Tu-Su Lane and travel north before turning west on Diaz Lane. The route will then turn south onto Barlow Lane and end at the Barlow Lane gym. The Parade is schedule to begin at 9:00 am and should be finished up by 12:30 pm. The Road Department is requesting that the Board approve the closure of 0.5 miles of Tu-Su Lane, 0.25 miles of Diaz Lane, and 0.25 miles of N. Barlow Lane.

In the area of the proposed road closures, Tu-Su Lane, Diaz Lane, and Barlow Lane provide access to residents of the Paiute Tribe. The Road Department will include provisions in the special event permit to enable people within the road closure area to access their homes, and will provide signs to assist with the closure of the roadway. There will be minimal impact to people trying to cross the reservation, as there are many other routes available to do so. The permittee will be required to arrange for the position of the closures and to direct residents around the closures.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could chose not to approve the road closure. This is not recommended, as the parade impact will be minimal and closure of the roadway will greatly increase safety for the participants. If this were to occur, the Bishop Paiute Tribe would need to identify an alternative location for the event.

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

There is no financial impact anticipated from this event.

**ATTACHMENTS:**

1. Parade Route

**APPROVALS:**

Trevor Taylor	Created/Initiated - 8/30/2019
Darcy Ellis	Approved - 8/30/2019
Trevor Taylor	Approved - 9/4/2019
Chris Cash	Final Approval - 9/5/2019

SIERRA HWY 395

Winuba Lane

N. Pa-Ha Lane

DIAZ LANE

Barlow Lane

Tu-Su Lane

Bishop Paiute Tribe and  
Paiute Palace Casino  
California Indian Days Parade  
Friday, September 27, 2019

Road Closed Ahead

Special Event Ahead

Road Closed Ahead

Special Event Ahead

Road Closed Ahead

Special Event Ahead

Special Event Signs

Road Closed Ahead

Special Event Ahead

End of Parade, Gym Parking Lot

Barlow Gym

Special Event Ahead

Beginning of the  
Parade Route at  
the Bishop Paiute  
Tribal Office  
Parking Lot

Parade Route

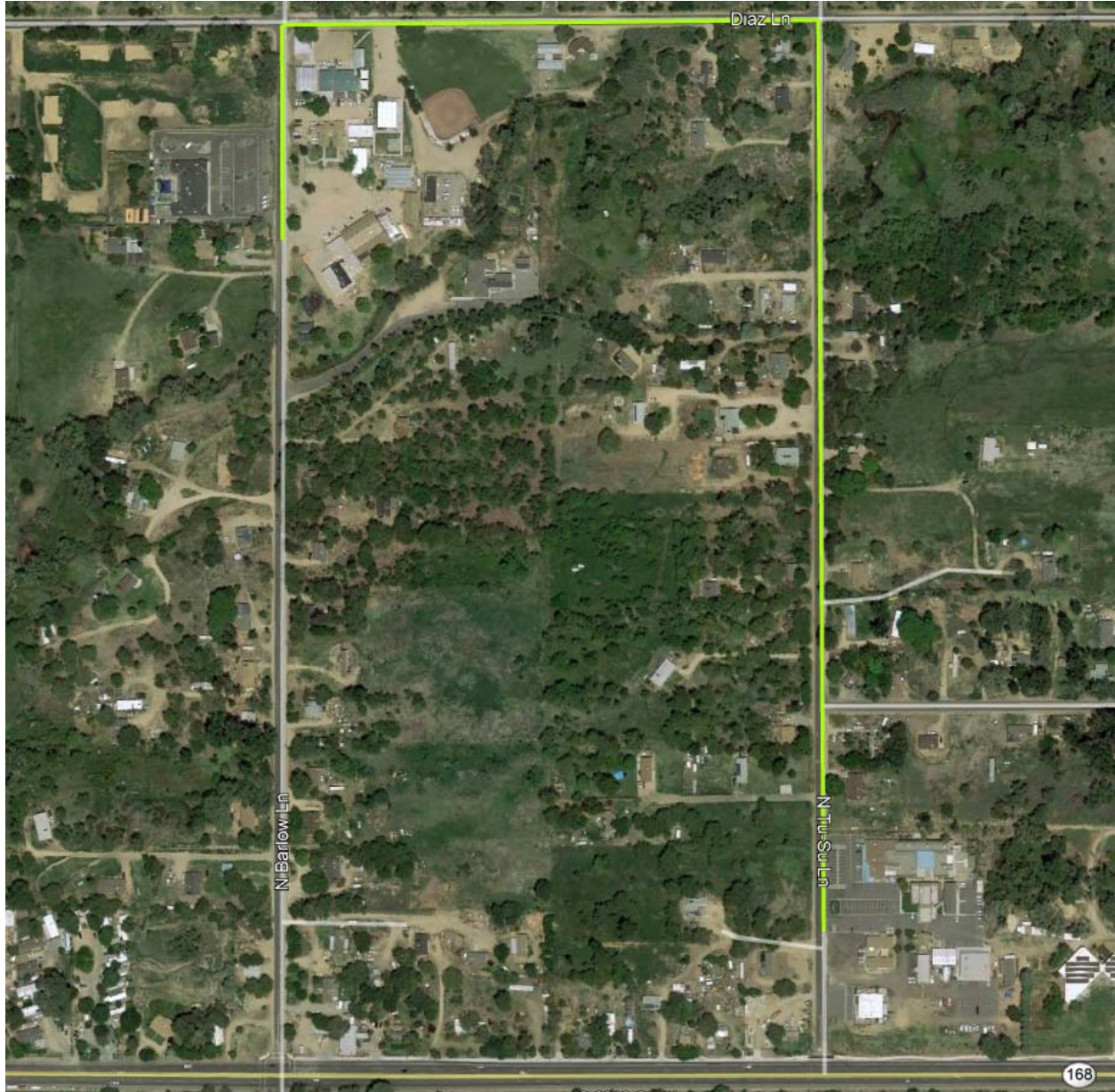
Bishop Tribal Office

Road Closed Ahead

See-Vee Lane

West Line Street

**September 27<sup>th</sup>, 2019 California Indian Day Parade Route**





# County of Inyo



## Clerk/Recorder

### DEPARTMENTAL - NO ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Kammi Foote

**SUBJECT:** Presentation/Workshop on Changing Election Landscape

---

**RECOMMENDED ACTION:**

Request Board receive a presentation on the Changing Election Landscape.

**SUMMARY/JUSTIFICATION:**

There have been several significant reforms in Election law in the past few years, changing how citizens vote and increasing the duties in the election department. This workshop is to inform the Board of Supervisors and the public of the most consequential changes.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

N/A

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

N/A

**ATTACHMENTS:**

1. Election Changes Presentation

**APPROVALS:**

Kammi Foote  
Darcy Ellis  
Kammi Foote

Created/Initiated - 8/16/2019  
Approved - 8/16/2019  
Final Approval - 8/16/2019



# Changing Elections Landscape

- **California No-Excuse Absentee Voting - 1978**
  - 4.4% absentee ballots cast in November 1978 election
- **Uniform & Overseas Citizens Absentee Voting Act (UOCAVA) - 1986**
  - Protects the right to vote for service members stationed overseas
- **California Voting Rights Act – 2001**
  - Prohibits the use of an at-large election in a political subdivision if it would impair the ability of a protected class to elect a candidate
- **California Permanent Vote By Mail - 2002**
  - 64,400 VBM ballots issued in November 2002 (33% of 194,600 registration)
  - 161,600 VBM ballots issued in November 2018 (74% of 217,400 registration)
- **Help America Vote Act (HAVA) - 2002**
  - Made sweeping reforms to the voting process nationwide, provided funding for new voting systems, and required accessible voting machines at every polling place for disabled voters beginning in 2008
- **Procured and Deployed Accessible Ballot Marking Devices in all polling places – June 2006**
  - All poll workers trained on the use of the DREs pursuant to HAVA

# Changing Elections Landscape

- **Military & Overseas Voter Empowerment (MOVE) Act – 2009**
  - Expanded UOCAVA to provide greater protections to service members, their families, and other overseas citizens
- **Top-Two open primary - 2010**
  - All voters receive a ballot with all candidates for voter-nominated offices. Presidential Primary and County Central Committee elections are still conducted as traditional modified closed primary elections once every four years.
- **Voter Pre-Registration for 16 and 17 year-olds - 2017**
  - County Elections Officials monitor these voters and ensure that they are notified to vote when they turn 18
- **Postage Plus Three - 2016**
  - Allows VBM ballots to be counted if postmarked and received within three days of Election Day
- **Eight Day Cure - Missing Signature on VBM Envelope - 2016**
  - Requires Elections Official to outreach voters - Allows for voters to provide a missing signature within eight days after Election Day
- **Elections Security - After November 2016 General Election**
  - Security continues to be a major issue for all County Elections Officials as it impacts every facet of Elections
  - On January 6, 2017 Department of Homeland Security designated Elections as a Critical Infrastructure Subset



# Changing Elections Landscape

- **Voter May Authorize Any Person to Deliver VBM Ballot - 2017**
  - Previously, voters needed to designate a family member or a person residing in the voter's household to return the ballot
- **VBM Ballot May Be Delivered to Any County in the State - 2017**
  - No later than eight days after receipt, County Elections Officials shall forward the ballot to the county in which the ballot was issued
- **California Voters' Choice Act (SB 450) - 2017**
  - Provides for fourteen counties to opt in for a program to hold 100% VBM elections with VBM drop boxes and early vote centers (five counties implemented in 2018 with several others implementing in 2020)
- **California Voting For All Act – Requires Non-English Facsimile Ballots at Certain Polling Places - 2016**
  - Inyo County is now required to provide facsimile ballots in Spanish
- **Eight Day Cure – Signature on VBM Envelope does not match - 2018**
  - Requires counties to outreach voters when the signature on a VBM envelope does not match the signature on file
- **New Motor Voter (AB1461) - 2018**
  - Allows DMV to register to vote any customer who is applying for a driver's license, making an address change, or renewing their licenses unless they choose to opt out of the process (voter registration in California is at an all-time high of 20M, up from 19M in May 2018)
- **Conditional Voter Registration - 2018**
  - Allows voters to register and cast a provisional ballot after the close of registration and on Election Day
  - Many thousands of voters took advantage of this new law in 2018, and many counties had several hour long waits for people looking to register in the days leading up to Election Day

# Changing Elections Landscape

- **Extension to Eight Day Cure - Missing Signature on VBM Envelope - 2018**
  - Secretary of State extended the missing signature cure to 28 days (not determined to be lawful by a court)
- **Prepaid Postage on All Returned VBM Ballots - 2019**
  - Requires counties to pay for postage on all returned VBM ballots and to ensure that USPS processes timely returns on election-related material
- **Increasing No Party Preference (NPP) Registration**
  - New Motor Voter driving a significant increase in NPP registration across the State and in Inyo County
  - County Elections are required to outreach all NPP voters prior to Primary election and notify them of party ballot choices
  - Elections anticipates a significant workload as NPP voters realize they are not able to vote for a Presidential candidate and choose to re-register on Election Day using CVR
- **Risk Limiting Audits (AB 2125) - 2018**
  - Allows counties to pilot Risk Limiting Audits (RLA) in 2020 before becoming mandatory in 2024
- **Voting System Replacement - 2017**
  - Prior system acquired in 2006.
  - Current system acquired in 2017.

# Changing Elections Landscape

- **Remote Accessible Vote By Mail (RAVBM) - 2018**
  - Disabled and/or military and/or overseas voters need to have the ability to cast a ballot using a certified remote accessible vote by mail system
- **No Party Preference (NPP) Crossover Voting - March 2020 Primary**
  - Voters registered NPP may request a party ballot, *if allowed*
  - If not allowed, they now have the ability to re-register and request a party ballot, even on Election Day (and at the polls if pending legislation SB 72 passes)
- **Pending Legislation**
  - SB 72 - CVR at the polls (in assembly appropriations)
  - AB 681 Allows for a voter to change address or party on Election Day – without reregistering in full (in Senate appropriations)



# County of Inyo



## County Administrator - Information Services

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:**

**SUBJECT:**

---

**RECOMMENDED ACTION:**

Request Board approve Amendment No. 4 to the Contract #CA2012.004 ("Master Agreement") between the County of Inyo and Manatron, Inc. – a Thomson Reuters Business extending the term to November 30, 2019, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

The current Amendment #3 to the County's Master Agreement with Thomson Reuters expires September 30, 2019, and the County has seen significant progress toward implementing the Thomson Reuter's Aumentum Property Tax Management System (PTMS) since the your Board entered into Amendment #3 effective April 30, 2018. Thomson Reuters has been working closely with Inyo County to convert our data and implement their conventional off-the-shelf (COTS) version of the Aumentum PTMS for smaller counties. Our implementation timeline, however, will not result in the system being live by September 30, 2019.

On behalf of the Assessor, Auditor and Tax Collector, I am requesting that we enter into Amendment #4 with Thomson-Reuters with the expectation of Go Live prior to November 30, 2019. The legal and financial protections from the previous Amendments remain in place and can be executed after February 28, 2020, should the County deem it necessary to terminate our relationship with Thomson Reuters.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

In addition to the recommended action there are alternatives:

- 1) Terminate the existing contract under the existing terms. This is not recommended as the County will be left with the decision of either attempt to continue to use the legacy application that may not have support, or negotiate a contract to implement either an incomplete system that is still in development, or implement an expensive solution with no guarantees of functional flexibility or known future costs.
- 2) Disregard the negotiated Amendment and initiate legal action against Thomson Reuters seeking full restitution of monies paid and additional liquidated damages. Based on the previous PTMS working group evaluation of alternatives to the present project and consideration of risks, this alternative is not recommended for several reasons:
  - a. Legal proceedings could take a long time to resolve and, provide no assurances that the County would

absolutely prevail;

b. Unless and until the County prevailed in the legal proceedings, it would need to identify additional funding to move forward with an alternative property tax management system solution.

c. Alternative property tax management systems are scarce. The only other potential solutions are either incomplete or functionally inflexible for our purposes. The full costs of any needed 3<sup>rd</sup> party solutions to provide the functionality that we have already seen in the Aumentum demonstrations are currently difficult to quantify.

3) Disregard the negotiated Amendment and attempt to negotiate additional conditions with Thomson Reuters. This is not recommended, as Thomson Reuters will not have legal incentive to negotiate further.

4) Disregard the negotiated Amendment and continue the project under the existing contract status quo. This is not recommended because there are no assurances under the existing contract and no monetary credits from the Thomson Reuters for County cost overruns.

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

Funding for this project is in the FY 2019-2020 Property Tax Upgrade budget , and funding for the expected ongoing support following Go Live is the the FY 2019-2020 Information Services Maintenance of Computer Systems budget .

**ATTACHMENTS:**

1. PTMS Amend 4 Signed by TR 20190912 - Complete

**APPROVALS:**

Scott Armstrong	Created/Initiated - 9/12/2019
Darcy Ellis	Approved - 9/12/2019
Scott Armstrong	Approved - 9/12/2019
Amy Shepherd	Approved - 9/12/2019
David Stottlemire	Approved - 9/12/2019
Alisha McMurtrie	Approved - 9/12/2019
Marshall Rudolph	Final Approval - 9/12/2019



**AMENDMENT #4**

This is Amendment #4 ("Amendment"), effective as of \_\_\_\_\_ ("Effective Date"), to Contract #CA2012.004 (the "Master Agreement") by and between Inyo County, California (the "Customer" or "County") and Manatron, Inc. – A Thomson Reuters Business ("TRTA Gov" or "Manatron"). In the event of a conflict between the terms and conditions of the Master Agreement and any prior amendments to the Master Agreement, the terms and conditions of this Amendment shall prevail.

WHEREAS, the Parties entered into the Master Agreement for the acquisition of certain Manatron GRM software and associated services to support the business processes necessary for the Customer to appraise, assess and collect real and personal property taxes within the County;

WHEREAS, the County and Manatron amended the Master Agreement with Amendment #1 signed in October 2015, Amendment #2 signed in January 2017, and Amendment #3 signed in April 2018, and now wish to amend the Master Agreement to incorporate the following modifications to Amendment #1, Amendment #2, Amendment #3, and the Master Agreement as set forth herein; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the County and Manatron, intending to be legally bound, hereby agree as follows:

1. The parties agree to a production cutover (Go-Live) and transition to support anticipated for October 31, 2019, and no later than November 30, 2019 (previously September 30, 2019). The parties have jointly worked to update a mutually agreed upon accelerated implementation plan and approach for each of the major milestones and deliverables, that supersedes any prior plans. The remaining contracted project services to be delivered post Go-Live will be documented in the Final Acceptance list, including training, custom report and custom interface services. Attached is the anticipated training curriculum to be delivered after October 31, 2019. Current plans include updated training and testing strategies, whereby some prior Customer responsibilities will now be implemented by Thomson Reuters. The current project plan entails additional Thomson Reuters services for taking on the full mapping, extract and conversion effort as well as playing a larger testing role, previously responsibilities of the Customer. This added cost is estimated at approximately \$320,000 and is at no additional charge to the Customer.
2. In accordance with the foregoing, the parties have updated two Deliverable Acceptance Statement (DAS) forms - Go Live and Final Acceptance. Said DAS attachments are attached hereto collectively and shall replace and supersede Attachments 1 and 2 to previous Amendment 1.
3. Pursuant to the Master Agreement, Customer must notify the TRTA Gov Customer Support team of all known production issues (defects) the County discovers in the Software while it is in the County's production environment (post Go Live). Notwithstanding anything to the contrary in Attachment 1, TRTA Gov Customer Support will triage, prioritize and then review all priority 1 and 2 production issues with the Customer that have been identified prior to March 1, 2020. TRTA Gov Customer Support and the Customer will agree to a timeline for delivery of said priority 1 and priority 2 production issues, per the severity definitions and resolution terms of the Master Agreement, including any assistance required by the TRTA Gov Professional Services team. Any failure to deliver identified priority 1 and priority 2 production issues by dates mutually agreed to by the parties and according to the contracted resolution terms, or as otherwise agreed to by the parties in writing, which is not caused by Customer or not caused by an Excusable Delay as set forth in Section 18.5 of the Master Agreement, and provided that the Customer and TRTA Gov agree that resolution of any outstanding issue cannot occur within an acceptable time frame, then the following actions will be taken:
  - Customer and TRTA Gov will proceed with contract termination.
  - TRTA Gov will refund all monies paid by Customer to TRTA Gov under the Master Agreement up to that date and an additional three hundred thirty thousand dollars (\$330,000.00).
  - The contract termination remedies set forth in this Section 3 are Customer's sole and exclusive remedies, and TRTA Gov's sole and exclusive liability, for the failure to resolve the items identified by Customer within the agreed to timeframe as defined herein, , and in the event of such failure, the parties agree the Master Agreement shall terminate on that date with no further penalty or obligations for either party other than the sole and exclusive remedies set forth in this Section 3, unless both parties agree to a Final



Acceptance extension in writing prior to said agreed upon date based upon the status of the remaining identified issues (defects). If the parties agree to such an extension and the remaining items are not resolved by the agreed extension date, then the Master Agreement shall terminate on the extension date with no further penalty or obligations for either party other than the sole and exclusive remedies set forth in this Section 3. Any mutually agreeable travel-related expenses incurred by TRTA Gov at the time of termination would be due and payable by the Customer upon receipt of the associated invoice.

Except as modified herein, the terms and conditions of the Master Agreement (as previously amended) remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Amendment as of the day and year written below.

Manatron, Inc.

Inyo County, California

BY: Brenda Le  
VP, Operations

By: \_\_\_\_\_  
County Executive

Name: Brenda Le

Name: \_\_\_\_\_

Date: 9/12/2019

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



## ATTACHMENT 1 - DELIVERABLE ACCEPTANCE STATEMENT (DAS)

### GO LIVE AUTHORIZATION

**Purpose:**

The purpose of this acceptance form is for the Customer to authorize Go Live and transition to support.

**DAS Acceptance Criteria:**

1. TRTA Gov and the County have completed a production cutover plan, identifying resource needs and timeline expectations.
  - a. Any associated travel and travel expenses have been authorized by both parties, with at least 15 days advance notice booking.
  - b. Both TRTA Gov and Client personnel are available for Go Live work.
2. The Client and TRTA Gov agree the system is ready for production.
3. The Client has provided an updated list of any known software issues and severity rankings.
4. System training has been delivered, with the remainder of training to be delivered in January 2020.
5. TRTA Gov and the Client have mutually agreed upon:
  - a. Fault items required for Go-Live - see Attachment A (*attach detailed list to this DAS*).
  - b. The final list of project work and delivery dates which will be used for Final Acceptance – see Attachment B (*attach detailed list to this DAS*). The project team will be responsible for the delivery of all Go Live and Final Acceptance items.
  - c. The Go Live and Final Acceptance lists will address all items ranked as Severity 1 or 2 (Critical and High) as defined by the contract terms.
  - d. The Final Acceptance list will address all remaining project work to be delivered, including remaining training and testing support as well as contracted hours for custom reports and interfaces.
  - e. All other project issues ranked as Severity 3 or 4 will be responded to in accordance with the Master Agreement.
6. System Go Live, expected between 10/31/2019 and 11/30/2019, and Transition to Support is established as \_\_\_\_\_.
7. Nothing in the foregoing shall prevent the County from raising additional software issues after Go Live, per section 3 of Amendment #4.
8. Any newly identified items from the point of transition date at Go Live will be submitted to and resolved by the TRTA Gov Customer Operations (Support) team, with support from Professional Services as needed.
9. With this sign off, it is expected that all prior DAS milestone sign offs are accepted as complete and billed as applicable, exception being Final Acceptance.

Client response period for signing this DAS is 5 business days. This timeframe supersedes other contractual references to response periods. After that time, this DAS will be considered accepted and ready for billing unless otherwise documented in a formal response to TRTA Gov with detailed rationale for rejecting of this milestone. Rejection of a milestone will result in immediate escalation and halt the project for further review.

We, the undersigned, agree that the system is ready for production cutover (Go Live), this project work is complete (except where outlined in Go Live and Final Acceptance lists), and that under the conditions of this Statement of Work \_\_\_\_\_, Master Agreement #CA2012.004, and Schedule \_\_\_\_\_. The Customer will be billed \$0.00 upon signing this acceptance. Refer to Exhibit 2018-12 of Amendment 3 for annual billing terms. It is agreed to proceed with the Final Acceptance phase of this project.

Accepted

Rejected





**Inyo County**

**TRTA Gov:**

Signature:	Signature:
Printed Name:	Printed Name:
Title:	Title:
Date:	Date:



## ATTACHMENT 2 - DELIVERABLE ACCEPTANCE STATEMENT (DAS)

### FINAL ACCEPTANCE

**Purpose:**

The purpose of this acceptance form is for the Customer to sign off on Final System Acceptance.

**Acceptance Criteria:**

1. The system is in a production environment.
2. TRTA Gov has delivered all Final Acceptance project work attached to the Deliverable Acceptance Statement, Go Live Authorization.
3. Any change requests not identified in the attached list will follow the Change Management Process and be implemented and billed separately.

This service was completed on: \_\_\_\_\_ . (*insert date*).

The Customer response period for signing this DAS is 5 business days. This timeframe supersedes other contractual references to response periods. After that time, this deliverable will be considered accepted and ready for billing unless otherwise documented in a formal response to TRTA Gov with detailed rational for rejecting of this milestone. Rejection of a milestone will result in immediate escalation and halt the project for further review.

We, the undersigned, agree that this work is complete and that under the conditions of this Statement of Work, Master Agreement XXX, and Schedule # YYY the Jurisdiction will be billed **\$0.00** upon signing this acceptance. Refer to Exhibit 2018-12 of Amendment 3 for annual billing amounts. It is agreed that with this Final Acceptance, the project is complete.

**Accepted**

**Rejected**

**Inyo County**

**TRTA Gov:**

Signature:	Signature:
Printed Name:	Printed Name:
Title:	Title:
Date:	Date:

# Attachment 3

## Inyo County – Post Go Live Training Plan & Curriculum

Below are anticipated training sessions (some of which is refresher training) that may be delivered after October 31, 2019. Depending on the audience, some sessions will be run in parallel.

### **Review of - Records Functionality Training ~.5 days**

- Records Corrections - .5 day

### **Review of - AA Functionality Training ~2 days**

- Roll Processes - 0.5 day
- Candidate Value Selection - 0.25 day
- Exclusions - 0.25 day
- Base Values - 0.25 day
- MCL Process – 0.5 day

### **Review of - RPA Functionality Training ~ 3 days**

- Land and Neighborhood analysis - 1 day
- Income Comps - 1 day
- Benchmark Comps - .5 day
- BAP processing - .5 day

### **Review of -PPA Functionality Training ~2 days**

- Account Processing in Busy Season - .50 day
- Batch and Bulk Processes - .50 day
- Electronic Fillings – 1 days

### **Review of - Tax Functionality Training ~1 day**

- General Ledger Export and Payments – 0.25 days
- Tax Estimator/ERAF Revenue Forecast – 0.25 days
- J-29 Report - 0.25 day



# County of Inyo



## Health & Human Services - First 5

### DEPARTMENTAL - NO ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:** Sharon Wilson

**SUBJECT:** First 5 Presentation of 2019-2024 Strategic Plan

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**RECOMMENDED ACTION:**

Request Board receive a presentation regarding the First 5 Commission's newly adopted 2019-2024 Strategic Plan.

**SUMMARY/JUSTIFICATION:**

The First 5 Inyo Commission adopted a new strategic plan on June 27, 2019, envisioning the next five years of programs and initiatives that help prepare Inyo County's youngest children and their families for success. First 5 Inyo is committed to being a strong organization that serves as a catalyst of sustained positive change for children birth to five and their families. Through the strategic plan, the First 5 Inyo Commission has prioritized investments that ensure all families are resilient and raising happy, healthy and thriving children.

As all First 5's across California, First 5 Inyo faces diminishing revenues. Included in the Strategic Plan is the Long-Range Financial Plan, outlining how the Commission will use the fund balance to offset these declining revenues, and pursue external revenue sources to ensure the needs of our children and families are being met.

This strategic plan is the result of a six-month participatory process that included: sending a survey to over 150 partners and receiving 60 responses, conducting six in-depth interviews with key stakeholders, convening a retreat with the First 5 Commission and key partners, and engaging Inyo County Health & Human Services staff, managers, and leadership. Included in the Strategic Plan is a full summary of the needs assessment guiding the focus of the plan.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your board could choose not to hear from First 5.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

No funding is associated with this agenda item.

**ATTACHMENTS:**

**APPROVALS:**

Sharon Wilson  
Darcy Ellis  
Marilyn Mann

Created/Initiated - 9/11/2019  
Approved - 9/11/2019  
Final Approval - 9/11/2019



# County of Inyo



## Public Works

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** September 17, 2019

**FROM:**

**SUBJECT:** Budget amendment to Budget 150504 and Amendment 1 to the contract with Wadell Engineering Corps.

---

**RECOMMENDED ACTION:**

Request Board:

A) Amend the Fiscal Year 2019-2020 Lone Pine/Death Valley Airport Pavement Budget (Budget 150504) as follows:

1. increase estimated revenue in State Grant (Revenue Code 4498) by \$7,835;
2. increase estimated revenue in Federal Grant (Revenue Code 4555) by \$156,710;
3. increase estimated revenue in Operating Transfer In (Revenue Code 4998) by \$9,576;
4. increase appropriation in Object Code Construction in Progress (Object Code 5700) by \$199,122;
5. decrease appropriation in Object Code Professional Services (Object Code 5265) by \$25,001;

B) Amend the Fiscal Year 2019-2020 Auditor Controller – Geothermal (Budget 010408) by increasing appropriation in Operating Transfer Out (Object Code 5801) by \$9,576 (4/5 vote required); and

C) Approve Amendment No. 1 to the agreement between the County of Inyo and Wadell Engineering Corp. (WEC) of Burlingame, CA, to increase the contract to an amount not to exceed \$126,465.00, and authorize the Chairperson to sign, contingent upon receipt of the forthcoming FAA grant for the Lone Pine/Death Valley Airport Runway Rehabilitation Project and all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

On April 16, 2019, your Board awarded a 5 year Master Agreement to WEC to provide engineering and planning services for various Airport Improvement Projects on an as-needed basis. The Master Agreement requires Amendments be executed in order to add specific County Airport projects that require WEC services.

On December 31, 2018 the County applied for an Airport Improvement Project (AIP) Grant from the Federal Aviation Administration (FAA) for the Lone Pine/Death Valley Airport to carry out construction of the Lone Pine Runway Rehabilitation Project. On July 3rd, 2019 bids were opened for this project. The low bid exceeded the amount of federal funding programed for the project, however the FAA allocated additional funds to cover the overage. The budget amendment in this agenda item account for the changes to estimated expenses and revenue for the construction project.

Amendment 1 to the contract with WEC will add construction support for this project to the scope of work of the on-call contract, as shown in Attachment A-1: *Scope of Work - LONE PINE / DEATH VALLEY AIRPORT – RUNWAY REHABILITATION CONSTRUCTION PHASE SERVICES*.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

April 16, 2019 - On-call contract awarded to WEC

June 11, 2019 Approval of the Plans and Specifications for the Runway Rehabilitation Project

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The Board could choose not to approve the amendment to the contract. This is not recommended, as construction inspection and material testing is required by the FAA, who is funding this project, and the County does not have the facilities or personnel to carry this out internally.

**OTHER AGENCY INVOLVEMENT:**

FAA  
California Division of Aeronautics (CDA)

**FINANCING:**

The Project, and this amendment, will be funded by the FAA's AIP, which will reimburse the County for ninety percent (90%) of the cost of the amendment, and by the CDA's matching grant program, which will reimburse the County for four and one-half percent (4.5%) of the cost of the amendment. The reimbursable costs will be paid through budget unit 150504, Lone Pine/Death Valley Airport Pavement, object code 5265, Professional Services in the amount of \$111,875.00.

The County's cost share of this contract will be \$6,153.13, however if State funds are not available, the full match amount could be \$11,187.50.

**ATTACHMENTS:**

1. Wadell Engineering Contract
2. WEC Amendment 1

**APPROVALS:**

Ashley Helms	Created/Initiated - 8/29/2019
Darcy Ellis	Approved - 8/30/2019
Ashley Helms	Approved - 9/10/2019
Breanne Nelums	Approved - 9/10/2019
Michael Errante	Approved - 9/11/2019
Marshall Rudolph	Approved - 9/11/2019
Amy Shepherd	Approved - 9/12/2019
Clint Quilter	Approved - 9/12/2019
Michael Errante	Final Approval - 9/12/2019

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 16<sup>th</sup> day of April 2019 an order was duly made and entered as follows:

*Public Works –  
Wadell  
Engineering  
Contract, Budget  
Amendment*

Moved by Supervisor Kingsley and seconded by Supervisor Totheroh to:

- A) Amend the Fiscal Year 2018-2019 Bishop Airport Operating Transfer Out (Budget 150100 Object Code 5801) by increasing by \$1,459;
- B) Amend the Fiscal Year 2018-2019 Bishop Airport-Taxiway Rehabilitation Budget (Budget 630305) as follows (*4/5th vote required*): increase estimated revenue in Federal Grants (Revenue Code 4555) by \$13,131; increase estimated revenue in Bishop Airport Operating Transfer In (Revenue Code 4998) by \$1,459, which will be paid from the Bishop Airport Operating Budget (Budget 150100); and increase appropriations in Professional Services (Object Code 5265) by \$14,590; and
- C) Approve Inyo County Standard Contract No. 161 between the County of Inyo and Wadell Engineering Corporation of Burlingame, CA for On-Call Airport Architectural, Engineering and Planning Services in an amount not to exceed \$14,590 for the period of April 16, 2019 through April 15, 2024, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

Motion carried unanimously 4-0, with Supervisor Griffiths absent.

WITNESS my hand and the seal of said Board this 16<sup>th</sup>  
Day of April, 2019



CLINT G. QUILTER  
Clerk of the Board of Supervisors

A handwritten signature in black ink, appearing to read "Clint G. Quilter".

By: \_\_\_\_\_

Routing
CC Purchasing Personnel Auditor X CAO Other: Public Works DATE: April 25, 2019





**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

- Consent     Departmental     Correspondence Action     Public Hearing  
 Schedule time for     Closed Session     Informational

For Clerk's Use  
Only:

AGENDA NUMBER

18

FROM: Public Works Department

FOR THE BOARD MEETING OF: APR 16 2019

SUBJECT: Approve a Contract/Master Agreement for On-Call Airport Architectural, Engineering and Planning Services with Wadell Engineering Corporation (WEC) of Burlingame, California.

**DEPARTMENTAL RECOMMENDATIONS:**

1. Request your board approve Inyo County Standard Contract No. 161 between the County of Inyo and WEC for On-Call Airport Architectural, Engineering and Planning Services in an amount not to exceed \$14,590 for the period from April 16, 2019 through April 15, 2024;
2. Authorize the chairperson to execute the contract, contingent upon obtaining appropriate signatures;
3. Amend the Fiscal Year 2018/2019 Bishop Airport Operating Transfer Out (Budget 150100 Object Code 5801) by increasing by \$1,459; and
4. Amend the Fiscal Year 2018/2019 Bishop Airport – Taxiway Rehabilitation (Budget 630305 as follows (4/5's vote required):
  - a. Increase estimated revenue in Federal Grants (Revenue Code 4555) by \$13,131;
  - b. Increase estimated revenue in Bishop Airport Operating Transfer In (Revenue Code 4998) by \$1,459, which will be paid from the Bishop Airport Operating Budget (150100);
  - c. Increase appropriations in Professional Services (Object Code 5265) by \$14,590;

**CAO RECOMMENDATION:**

**SUMMARY DISCUSSION:** Under FAA guidelines, an Architectural & Engineering Design contract must not extend past 5 years from the beginning of the first project. The existing on-call contract between WEC and the County for architectural and engineering design reached this 5 year threshold in November of 2018, prompting Public Works to advertise for Requests for Qualifications for a new on-call contract. The Public Works Department recently solicited for interested consultants to provide On-Call Airport Architectural, Engineering and Planning Services for the Bishop and Lone Pine Airports for projects that are funded by the Federal Aviation Administration's (FAA) Airport Capital Improvement Program (ACIP). The potential projects include construction administration for the Bishop Taxiway Rehabilitation and Lone Pine Pavement Rehabilitation, design of the Pavement Rehabilitation of Runway 12-30, and others as funding is available. Three consultants who provide engineering services for airport projects submitted Statements of Qualification for the work:

- Armstrong Engineering, Reno, Nevada
- Tartaglia Engineering, Atascadero, California
- Wadell Engineering Corporation, Burlingame, California

The respondents' qualifications were rated by two of the Public Works Department engineering and the CAO. WEC was selected as the most qualified consultant to provide engineering services for these projects. The initial scope of work for this contract includes design work for the relocation of airfield lighting where conflicts exist with new FAA design standards for fillets between runways and taxiways. This design work will be included in the bid documents produced for the Bishop Taxiway Rehabilitation Project.

New projects will be incorporated into the master agreement in the future by the formal amendment process.


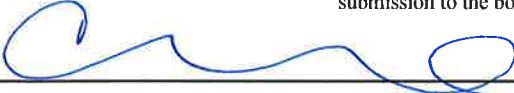
**ALTERNATIVES:** The Board could choose not to approve the contract for On-Call Airport Architectural, Engineering and Planning Services. This is not recommended because WEC has an outstanding record of project delivery for the Inyo County airports, and the services associated with this contract are necessary for the success of the two FAA funded construction projects slated for this summer.

**OTHER AGENCY INVOLVEMENT:**

The auditor's office to make payments to the contractor after the contract is awarded.  
County counsel to review and approve the contract;

**FINANCING:** The reimbursable costs of this Project will be paid through Budget Unit 630305, Object Code 5265.


**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)
	Approved: <u>yes</u> Date <u>4/8/19</u>
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)
	Approved: <u>yes</u> Date <u>4/9/2019</u>
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)
	Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)  Date: 2019.04.9

**BUDGET OFFICER SIGNATURE:**

(Not to be signed until all approvals are received)  Date: 4/9/19

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND Wadell Engineering Corporation**  
**FOR THE PROVISION OF Airport Architectural, Engineering and Planning SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for Airport Architectural, Engineering and Planning services of Wadell Engineering Corporation (hereinafter referred to as "Consultant"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK**

The Consultant shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Consultant to perform under this Agreement will be made by the Public Works Director, Michael Errante. Requests to the Consultant for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Consultant by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Consultant the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Consultant at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions.

**2. PERFORMANCE PERIOD**

**(Choose Option 1 or Option 2)**

**Option 1 – Standard Contract**

A. This Contract shall go into effect on \_\_\_\_\_, contingent upon approval by County, and Consultant shall commence work after notification to proceed by County's Contract Administrator. The Contract shall end on \_\_\_\_\_, unless extended by Contract amendment.

B. Consultant is advised that any recommendation for Contract award is not binding on County until the Contract is fully executed and approved by County.

**Option 2 – On-Call Contracts**

A. This Contract shall go into effect on April 16, 2019, contingent upon approval by County, and Consultant shall commence work after notification to proceed by County's Contract Administrator. The Contract shall end on April 15, 2024, unless extended by Contract amendment.

B. Consultant is advised that any recommendation for Contract award is not binding on County until the Contract is fully executed and approved by County.

C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this Contract, the terms of the Contract shall be extended by Contract amendment.

**3. CONSIDERATION**

A. Compensation. County shall pay Consultant in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Consultant at the County's request.

B. Travel and per diem. County shall reimburse Consultant for the travel expenses and per diem which Consultant incurs in providing services and work requested by County under this Agreement. Consultant shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Consultant for approval to incur travel and per diem expenses shall be submitted to the \_\_\_\_\_.  
Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Consultant for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Consultant without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Consultant shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Consultant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Consultant for services and work performed under this Agreement shall not exceed fourteen thousand five hundred and ninety \$ 14,590 .00 Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Consultant for services or work performed which is in excess of the contract limit.

E. Billing and payment. Consultant shall submit to the County, once a month, an itemized statement of all hours spent by Consultant in performing services and work described in

Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the hours were worked and describe the nature of the work which was performed on each day. Consultant 's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Consultant during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Consultant on the last day of the month.

F. Federal and State taxes.

- (1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Consultant under the terms and conditions of this Agreement.
- (2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent Consultant's when it is anticipated that total annual payments to Consultant under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).
- (3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.
- (4) The total amounts paid by County to Consultant, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Consultant shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

**4. WORK SCHEDULE**

Consultant's obligation is to perform, in a timely manner, those services and work identified in Attachment A, which are requested by the County. It is understood by Consultant that the performance of these services and work will require a varied schedule. Consultant will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

**5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS**

Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Consultant to provide the services and work described in Attachment A must be procured by Consultant and be valid at the time Consultant enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Consultant at no expense to the County. Consultant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Consultant and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

**6. CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT**

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it, Consultant nor its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency from participation in this transaction. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

**7. CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offerer/Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

**8. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA**

Consultant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Consultant to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Consultant, for any expense or cost incurred by Consultant in procuring or maintaining such items. Responsibility for

the costs and expenses incurred by Consultant in providing and maintaining such items is the sole responsibility and obligation of Consultant.

## **9. DISADVANTAGED BUSINESS ENTERPRISES**

### **Contract Assurance (§ 26.13)**

The Consultant or subcontractor 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 Department of Transportation-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 County deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Consultant from future bidding as non-responsible.

### **Prompt Payment (§26.29)**

The prime Consultant agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 14 days from the receipt of each payment the prime Consultant receives from County. The prime Consultant agrees further to return retainage payments to each subcontractor within 14 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 County. This clause applies to both DBE and non-DBE subcontractors.

## **10. TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the County encourages the Consultant to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Consultant must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

## **11. CLEAN AIR AND WATER POLLUTION CONTROL**

### **(Applies to all contracts that exceed \$150,000)**

Consultant agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control

Act as amended (33 USC § 1251-1387). The Consultant agrees to report any violation to the County immediately upon discovery. The County assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Contractor must include this requirement in all subcontracts that exceeds \$150,000.

## **12. ENERGY CONSERVATION REQUIREMENTS**

Consultant and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201 *et seq.*).

## **13. FEDERAL FAIR LABOR STANDARDS ACT (FLSA)**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

## **14. TRADE RESTRICTION CERTIFICATION**

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) 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 as published by the Office of the United States Trade Representative (USTR);
- 2) 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 included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

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 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the County if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Consultant must require subcontractors provide immediate written notice to the Consultant if at any time it learns that its certification was erroneous by reason of changed circumstances.

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 an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or



- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

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.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Consultant may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

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

#### **15. CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**16. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

**17. CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS**

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

**Certifications**

- 1) The applicant represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is ( ) is not ( ) is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.
- 3) **Term Definitions**
- 4) **Felony conviction:** Felony conviction means a conviction within the preceding twenty-four
- 5) (24) months of a felony criminal violation under any Federal law and includes
- 6) conviction of an offense defined in a section of the U.S. code that specifically classifies
- 7) the offense as a felony and conviction of an offense that is classified as a felony under 18
- 8) U.S.C. § 3559.
- 9) **Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

**18. VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the Consultant and all sub-tier Consultants must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled

veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

## **19. COUNTY PROPERTY**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Consultant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Consultant will use reasonable care to protect, safeguard and maintain such items while they are in Consultant's possession. Consultant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Consultant's negligence.

B. Products of Consultant's Work and Services. Any and all compositions, publications, plans, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Consultant's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Consultant will convey possession and title to all such properties to County.

## **20. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES**

For the duration of this Agreement Consultant shall procure and maintain insurance of the scope and amount specified in Attachment D and with the provisions specified in that attachment.

## **21. STATUS OF CONSULTANT**

All acts of Consultant, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent Consultant's, and not as agents, officers, or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Consultant is to be considered an employee of County. It is understood by both Consultant and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent Consultant:

A. Consultant shall determine the method, details, and means of performing the work and services to be provided by Consultant under this Agreement.

B. Consultant shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement.

C. Consultant, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent Consultant's, and not as employees of County.

## **22. DEFENSE AND INDEMNIFICATION**

For professional services rendered under this Contract, Consultant agrees to indemnify, including the cost to defend, entity and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the County; and does not apply to any passive negligence of the County unless caused at least in part by the Consultant.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Consultant, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

## **23. ACCESS TO RECORDS, REPORTS AND AUDIT**

A. Records. Consultant must prepare and maintain an acceptable cost accounting system and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. The Consultant agrees to provide the County, 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. Consultant shall maintain these records for a minimum of four (4) years after final payment is made and the termination or completion of this Agreement. Consultant may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Consultant, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Consultant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

## **24. EQUAL OPPORTUNITY CLAUSE**

During the performance of this contract, the Consultant agrees as follows:

(1) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be

limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency 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 vendor as a result of such direction by the administering agency the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

## **25. GENERAL CIVIL RIGHTS PROVISIONS**

The Consultant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color,

national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Consultant and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

**26. TITLE VI – COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS**

During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

1. **Compliance with Regulations:** The Consultant (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Consultant, with regard to the work performed by it during the contract, will 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 will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
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 will be notified by the Consultant of the Consultant’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Consultant will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will 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 to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Consultant’s noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Consultant under the contract until the Consultant complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Consultant will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Consultant may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

#### **Title VI List of Pertinent Nondiscrimination Acts and Authorities**

During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Consultants, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

## **27. ASSIGNMENT**

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience, and training of Consultant as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

## **28. BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the Consultant or its 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.

County will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. County reserves the right to withhold payments to Consultant until such time the Consultant corrects the breach or the County elects to terminate the contract. The County's notice will identify a specific date by which the Consultant must correct the breach. County may proceed with termination of the contract if the Consultant fails to correct the breach by the deadline indicated in the County's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

## **29. TERMINATION FOR CONVENIENCE**

The County may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the County, the Consultant must immediately discontinue all services affected.



Upon termination of the Agreement, the Consultant must deliver to the County all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

County agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

County further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

### **30. TERMINATION FOR DEFAULT**

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) **Termination by County:** The County may terminate this Agreement in whole or in part, for the failure of the Consultant to:
1. Perform the services within the time specified in this contract or by County approved extension;
  2. Make adequate progress so as to endanger satisfactory performance of the Project; or
  3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the County all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

County agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

County further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the County determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the County issued the termination for the convenience of the County.

- b) **Termination by Consultant:** The Consultant may terminate this Agreement in whole or in part, if the County:
1. Defaults on its obligations under this Agreement;
  2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
  3. Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, County agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If County and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the County's breach of the contract.

In the event of termination due to County breach, the Engineer is entitled to invoice County and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. County agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

### **31. WAIVER OF DEFAULT**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph thirty-seven (37) "Amendment" below.

### **32. CONFIDENTIALITY**

Consultant further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Consultant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Consultant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Consultant only with the express written consent of the County. Any disclosure of confidential information by Consultant without the County's written consent is solely and exclusively the legal responsibility of Consultant in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**33. CONFLICTS**

Consultant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**34. POST AGREEMENT COVENANT**

Consultant agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Consultant agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any County, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Consultant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**35. SEVERABILITY**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**36. FUNDING LIMITATION**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Consultant of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph thirty-seven (37) "Amendment."

**37. AMENDMENT**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**38. NOTICE**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Consultant or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

**County of Inyo:**

_____	Public Works	Department
_____	PO Drawer Q	Address
_____	Independence, CA 93526	City and State

**Consultant:**

_____	Wadell Engineering Corporation	Name
_____	PO Box 117370	Address
_____	Burlingame, CA 94011-7370	City and State

**39. ENTIRE AGREEMENT**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** Wadell Engineering Corporation

**FOR THE PROVISION OF** Airport Architectural, Planning and Engineering **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**COUNTY OF INYO**

**CONSULTANT**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Print or Type Name

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

Grace Chichlo  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** Wadell Engineering Corporation

**FOR THE PROVISION OF** Airport Architectural, Planning and Engineering **SERVICES**

**TERM:**

**FROM:** April 16, 2019

**TO:** April 15, 2024

**SCOPE OF WORK:**

This is a five year, on-call contract with Wadell Engineering Corporation (WEC) for Airport Architectural, Planning and Engineering Services to be funded by Airport Improvement Program grants through the Federal Aviation Administration (FAA). Upon receipt of funding opportunities from the FAA, the County shall request a Scope of Work and Schedule of Fees for the project from WEC. Each new project assigned to WEC shall be incorporated into this contract by amendment, through action of the Inyo County Board of Supervisors. There is no guarantee that future projects will be assigned to WEC under this contract, projects are contingent on the availability of federal funding.

The initial Scope of Work for this contract is described as follows:

The Consultant will modify lighting and signing plans for the Bishop Taxiway Rehabilitation Project, which are being designed under a previous contract, to meet new FAA requirements for lighting and signing locations associated with FAA's new fillet design standards for the fillets at intersections of D/12, D/H, D/17, B/C, J/17 north, J/35 south, J/H north, J/H south, F/8 west, F/26 east, F/12 west, F/30 east, F/A west, F/A east, H/35 north, and H/35 south.

The modifications require removal and relocation of light fixtures, removal and disposal of interfering can bases and foundations, new cans with fixtures and associated wiring rerouting. Signs will be relocated as needed to meet standards.

The design plans will depict coordinates of new lighting and signing locations and identification of fixtures for removal. The quantities specific to each location will be depicted on the plans adjacent to the subject fillet.

All work shall be completed prior to June 30, 2019.

**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** Wadell Engineering Corporation

**FOR THE PROVISION OF** Airport Architectural, Planning and Engineering **SERVICES**

**TERM:**

**FROM:** April 16, 2019 **TO:** April 15, 2024

**SCHEDULE OF FEES:**

This is a five year, on-call contract with Wadell Engineering Corporation (WEC) for Airport Architectural, Planning and Engineering Services to be funded by Airport Improvement Program grants through the Federal Aviation Administration (FAA). Any future work assigned to WEC shall be incorporated into this contract by amendment, through action of the Inyo County Board of Supervisors, and would include a Scope of Work and Schedule of Fees. There is no guarantee that future projects will be assigned to WEC under this contract, projects are contingent on the availability of federal funding.

The initial Schedule of Fees for this contract is described as follows:

The County of Inyo agrees to pay Consultant for services performed under the conditions of this agreement the lump sum fixed price amount of \$14,590.00 for the additional lighting design services. The compensation includes reimbursement for all labor, travel, lodging, meals, and supplies.

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** Wadell Engineering Corporation

**FOR THE PROVISION OF** Airport Architectural, Planning and Engineering **SERVICES**

**TERM:**

**FROM:** April 16, 2019 **TO:** April 15, 2024

**SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:**

This is a five year, on-call contract with Wadell Engineering Corporation (WEC) for Airport Architectural, Planning and Engineering Services to be funded by Airport Improvement Program grants through the Federal Aviation Administration (FAA). Any future work assigned to WEC shall be incorporated into this contract by amendment, through action of the Inyo County Board of Supervisors, and would include a Scope of Work and Schedule of Fees. There is no guarantee that future projects will be assigned to WEC under this contract, projects are contingent on the availability of federal funding.

No Travel or Per Diem Payments are included in the initial contract.



**ATTACHMENT D**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** Wadell Engineering Corporation

**FOR THE PROVISION OF** Airport Architectural, Planning and Engineering **SERVICES**

**TERM:**

**FROM:** April 16, 2019 **TO:** April 15, 2024

**SEE ATTACHED INSURANCE PROVISIONS**

**Specifications 2**  
**Insurance Requirements for Professional Services**

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

***(Not required if consultant provides written verification it has no employees)***

1. **Professional Liability** (Errors and Omissions) Insurance appropriate to the Consultant's profession, with limit no less than **\$1,000,000** per occurrence.

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

**Other Insurance Provisions**

**The insurance policies are to contain, or be endorsed to contain, the following provisions:**

***Additional Insured Status***

1. **The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

### ***Other Insurance Provisions***

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### ***Primary Coverage***

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

#### ***Notice of Cancellation***

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity.**

#### ***Waiver of Subrogation***

Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

#### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

#### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

#### ***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

#### ***Verification of Coverage***

Consultant shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete,

certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**Subcontractors**

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

***Special Risks or Circumstances***

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**AMENDMENT NO. 1**  
**To**  
**Agreement Between COUNTY OF INYO and**  
**Wadell Engineering Corporation**  
**For**  
**On-Call Airport Engineering and Planning Services**

**LONE PINE / DEATH VALLEY AIRPORT – RUNWAY REHABILITATION CONSTRUCTION**  
**ADMINISTRATION**

**WHEREAS**, the County of Inyo (hereinafter referred to as “County”) and Wadell Engineering Corporation of Burlingame, California (hereinafter referred to as “Consultant”), have entered into an Agreement for the provision of engineering and planning services dated April 16, 2019, on County of Inyo Standard Contract No. 161, for the term from April 16, 2019 to April 15, 2024.

**WHEREAS**, County and Consultant do desire and consent to amend such Agreement as set forth below:

**WHEREAS**, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Consultant hereby amend such Agreement as follows:

1. Section 3D, Limit upon amount payable under Agreement. The first sentence is revised as follows:  
  
“The total sum of all payments made by the County to Consultant for services and work performed under this Agreement shall not exceed one hundred twenty six thousand, four hundred sixty five dollars and no cents (\$126,465.00) (hereinafter referred to as “Contract limit”).
2. Attachment A to the Contract, Scope of Work, shall be revised to include the additional tasks required for the Lone Pine / Death Valley Airport – Runway Rehabilitation Project for Construction Phase Services, as described Attachment A-1 to the Contract.
3. Wadell Engineering Corporation’s fee for the scope of work described in Attachment B-2 to the Contract shall be the lump-sum, fixed-price fee of \$111,875.00.

The effective date of this amendment to the Agreement is \_\_\_\_\_.

All other terms and conditions of the Agreement are unchanged and shall remain the same.

**AMENDMENT NO. 1**  
**To**  
**Agreement Between COUNTY OF INYO and**  
**Wadell Engineering Corporation**  
**For**  
**On-Call Airport Engineering and Planning Services**

**LONE PINE / DEATH VALLEY AIRPORT – RUNWAY REHABILITATION CONSTRUCTION**  
**PHASE SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

**COUNTY OF INYO**

**CONSULTANT**

By: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGALITY:

\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING  
FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL  
REQUIREMENTS:

\_\_\_\_\_  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

\_\_\_\_\_  
County Risk Manager

**AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Wadell Engineering Corporation  
FOR THE PROVISION OF ON-CALL AIRPORT ENGINEERING AND PLANNING  
SERVICES**

**TERM:**

**FROM:** April 16, 2019      **TO:** April 15, 2024

**SCOPE OF WORK:**

The Scope of Work described in the original contract, dated April 16, 2019, is revised to include additional tasks required for the Lone Pine / Death Valley Airport – Runway Rehabilitation Construction Phase Services, detailed below:

**SCOPE OF WORK**

**LONE PINE / DEATH VALLEY AIRPORT – RUNWAY REHABILITATION CONSTRUCTION  
PHASE SERVICES**

The CONSULTANT will provide construction phase services for the Lone Pine / Death Valley Airport Runway Rehabilitation Project. The services include monitoring the construction project to determine if the construction is in accordance with the plans and specifications.

The services include organization and attendance at a preconstruction conference; preparation of conference minutes; preparation of a construction management program for material acceptance testing; coordinating the notice to proceed; review and processing of contractor submittals and requests for information; procurement of an acceptance testing subconsultant; principal engineer site visits for on-site construction observation during critical work periods; office support during construction; review and acceptance of contractor work schedule; review of contractor work relative to plans and specifications; review of quantities and payment requests; preparation of weekly and monthly reports, wage rate interviews, field order and change order processing; final inspection and preparation of record drawings based on contractor furnished as-built submittals, and final engineer's report. Portions of the Airport Layout Plan will be updated to reflect the new improvements upon completion.

CONSULTANT and COUNTY are not responsible for the construction means, methods, techniques, sequences, and safety at the site. The construction contractor has sole responsibility for these activities.

**SCHEDULE OF SERVICES:**

The construction contractor is allowed a maximum of 60 calendar days for all work. The Construction Phase Services shall be undertaken after the contract award and shall continue until 30 days after final inspection and closeout.

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**TERM:**

**FROM:** April 16, 2019      **TO:** April 15, 2024

**SCHEDULE OF FEES:**

The COUNTY agrees to pay CONSULTANT for services performed under the conditions of this agreement the lump sum fixed price amount of one hundred eleven thousand eight hundred seventy five dollars (\$111,875.00) for the Construction Work Phase. The compensation includes reimbursement for all labor, travel, lodging, meals, supplies, field and laboratory testing during the construction phase.