

CONTRACT

THIS CONTRACT, hereinafter referred to as “CONTRACT” for purposes of identification hereby numbered MA-012-18011468, and dated _____ day of _____, 20____ is

BY AND BETWEEN

County of Orange, a political subdivision of the State of California, hereinafter referred to as “COUNTY”

AND

Thirtieth Street Architects, Inc., a California Corporation, hereinafter referred to as “A-E”,

which are sometimes individually referred to as “PARTY” or collectively referred to as “PARTIES”.

RECITALS

WHEREAS, COUNTY requires professional services to accomplish projects and/or services (“PROJECTS/SERVICES”) as described in MA-012-18011468 Scope Of Work for On-Call Historical Architecture Services, hereinafter referred to as “Attachment A,” attached hereto and incorporated herein by reference; and

WHEREAS, A-E is a firm whose principals are, as required by law, registered by the State of California for the practice of specialized A-E services per the attached Scope of Work.

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

1. GENERAL

1.1. Retainer

1.1.1. COUNTY does hereby retain A-E to perform the PROJECTS/SERVICES as required by this CONTRACT.

1.1.2. A-E has offered, and COUNTY has accepted, the professional services of **James C. Wilson** and A-E shall assign him/her to the PROJECTS/SERVICES.

1.1.3. A-E may employ special consultants/contractors for the accomplishment of the PROJECTS/SERVICES specified; and only the firms or independent consultants/contractors identified in Attachment C may be employed by A-E to provide these PROJECTS/SERVICES.

1.1.4. Consultants/contractors may be substituted and/or added by mutual agreement of A-E and the Director, County of Orange, OC Public Works or his designee, hereinafter referred to as “DIRECTOR”.

1.1.5. A-E's employment of independent consultants/contractors shall not relieve A-E from the performance of its own responsibilities pursuant to this CONTRACT. However, all consultants/contractors independently contracting with COUNTY shall be independently liable to COUNTY for the performance of the work pursuant to their agreements, and A-E shall have no liability for work by contractors independently contracting with

COUNTY.

1.2. Projects/Services

1.2.1. Description of PROJECTS/SERVICES

- a. PROJECT/SERVICES to be performed by A-E shall consist of the work as specified herein and as required in Attachment A. If in the event Attachment A shall be in conflict with any provision of this CONTRACT, the wording as set forth in Attachment A shall prevail.
- b. A-E shall be responsible for submitting all PROJECTS/SERVICES to COUNTY in a form which has been thoroughly reviewed and checked for completeness, accuracy and consistency by the registered professional named in Section 1.1.2 herein; and, any PROJECTS/SERVICES not meeting this requirement will be returned to A-E prior to review by COUNTY.

1.2.2. Design Criteria and Standards

All PROJECTS/SERVICES shall be performed in accordance with instructions, criteria and standards set forth by the DIRECTOR.

1.2.3. Scheduling

- a. Concurrently with the work of the CONTRACT, A-E shall prepare a progress work schedule and within five (5) working days from the date of receipt of individual assignments from COUNTY, A-E shall submit to COUNTY two (2) copies of a progress work schedule which shall delineate dates of commencement and completion of the various phases of PROJECTS/SERVICES assignments.
A-E schedule shall include required COUNTY review period(s) set forth herein. An approved copy of the progress schedule will be returned to A-E.
- b. A-E shall allow at least three (3) working days for COUNTY review of progress work schedule. In planning work A-E should anticipate and allow ten (10) working days for COUNTY review of each submittal required in Attachment A.
- c. A-E shall meet on an as-needed basis as determined by COUNTY to review progress of work, adherence to progress schedule, coordination of work, scheduling of seminars, if needed, and to resolve any problems that may develop.
- d. Within three (3) working days of each meeting, A-E shall prepare a brief memorandum summarizing the results of the meeting and shall submit it to COUNTY for concurrence.
- e. A-E shall complete all the work of PROJECTS/SERVICES and obtain all approvals by the COUNTY within the time frame indicated in Attachment A except A-E shall not be responsible for any delay beyond the control of A-E.
- f. In the event A-E fails to complete the work and obtain the approval of DIRECTOR in the time allowed, COUNTY shall have the option of completing the work by its own forces or by contract with another firm. The time allowed for A-E to complete the PROJECTS/SERVICES pursuant to this CONTRACT shall

be extended for delay caused by COUNTY in completing its work pursuant to this CONTRACT which delay exceeds the agreed COUNTY review and/or approval time periods.

1.3. Assistance by COUNTY STAFF

1.3.1. COUNTY shall assign an appropriate staff member to work with A-E in connection with the work of this CONTRACT. Said staff member's duties will consist of the giving of advice and consultations, assisting A-E in negotiations with other public agencies and private parties, miscellaneous items which in the judgment of A-E or COUNTY's staff warrant attention, and all other duties as may be described in Attachment A.

1.3.2. All of the above activities, however, shall be the primary responsibility of A-E to schedule, initiate and carry through to completion.

1.4. Term and Maximum Compensation

1.4.1. The term of this CONTRACT is for three (3) years, commencing upon Board of Supervisor approval, with a maximum allowable compensation of two hundred and fifty thousand dollars (\$250,000), with the option to renew for two (2) additional years, with Board approval; except as permitted in Paragraph 1.5 below.

1.5. A-E Compensation and Extra Work

1.5.1. For the PROJECTS/SERVICES authorized under this CONTRACT, A-E shall be compensated in accordance with the following:

1.5.2. For completion and approval of all PROJECTS/SERVICES where "Extra Work" (defined as changes in approved portions of the PROJECT/SERVICES required by and ordered in writing by DIRECTOR which changes constitute a change in or departure from said approved portions of PROJECTS/SERVICES) is not authorized, compensation including reimbursables shall be described and payable as stipulated in Fee Schedule, herein after referred to as "Attachment B", attached hereto and incorporated herein by reference.

1.5.3. Where extra work is authorized for PROJECTS/SERVICES:

- a. The amount for Extra Work shall be determined using Attachment B. Extra Work shall be required by and ordered in writing by DIRECTOR. If this CONTRACT is not approved by the Board of Supervisors, any change that increases the cumulative CONTRACT price beyond \$100,000 must be approved by the Board. Increases in the CONTRACT amount for services within the existing scope of work may be granted by the DIRECTOR where the amount does not exceed 25 percent of the existing CONTRACT price or \$100,000, whichever is less.
- b. A-E's billing for the Extra Work shall include but not be limited to names of A-E's staff employed in the Extra Work, classification of employees and number of hours worked.

1.5.4. For partial completion of work of PROJECTS/SERVICES followed by default on part of A-E:

- a. For failure to complete and secure approval of the first required submittal, there shall be no compensation.
- b. For failure to complete and secure approval of other authorized phases, A-E shall, upon completion of PROJECTS/SERVICES by others, be entitled to receive compensation based on approved work of PROJECTS/SERVICES not to exceed the amounts specified in Attachment A for that particular submittal, plus the reasonable value as determined by COUNTY of the non-approved work; provided, however, that if the cost to COUNTY to complete the contract exceeds the amount specified herein, A-E shall be liable to COUNTY for such excess costs attributable to A-E's breach of the CONTRACT.

2. LABOR

2.1 Non-Employment of COUNTY Personnel

- 2.1.1 A-E agrees that it will neither negotiate, offer, or give employment to any full-time, regular employee of COUNTY in professional classifications of the same skills required for the performance of this CONTRACT who is involved in this Project in a participatory status during the life of this CONTRACT regardless of the assignments said employee may be given or the days or hours employee may work.
- 2.1.2 Nothing in this CONTRACT shall be deemed to make A-E, or any of A-E's employees or agents, agents or employees of the COUNTY. A-E shall be an independent contractor and shall have responsibility for and control over the details and means for performing the work, provided that A-E is in compliance with the terms of this CONTRACT. Anything in the CONTRACT which may appear to give COUNTY the right to direct A-E as to the details of the performance of the work or to exercise a measure of control over A-E shall mean that A-E shall follow the desires of COUNTY, only in the results of the work.

2.2 Non-Discrimination

- 2.2.1 In the performance of this CONTRACT, A-E agrees that it will comply with the requirements of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons.
- 2.2.2 A-E acknowledges that a violation of this provision shall subject A-E to all the penalties imposed for a violation of the California Labor Code.

2.3 Employee Eligibility Verification

- 2.3.1 A-E warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens, and others and that all its employees performing work under this CONTRACT meet the citizenship or alien status requirement set forth in Federal statutes and regulations. A-E shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations, including but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324 et seq., as they

currently exist and as they may be hereafter amended. A-E shall retain all such documentation for all covered employees for the period prescribed by the law.

2.4 Independent Contractor

2.4.1 As referenced in Section 2.1.2 of this CONTRACT, A-E shall be considered an independent contractor.

2.4.2 Neither A-E, its employees nor anyone working under A-E shall qualify for workers' compensation or other fringe benefits of any kind through COUNTY.

2.5 Conflict of Interest Contractor Personnel

2.5.1 The A-E shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the COUNTY. This obligation shall apply to the A-E; the A-E's employees, agents, and relatives; sub-tier contractors; and third parties associated with accomplishing work and PROJECTS/SERVICES hereunder.

2.5.2 A-E's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from: making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the COUNTY.

2.6 Labor Code Notice

2.6.1 All A-E and subcontractors must comply with the requirements of California Labor Code 1770 et seq. if the work performed is considered a "public works" under California Labor Code 1720 et seq. A-E is encouraged to contact the California Department of Industrial Relations for clarification if the A-E is unsure if some or any of the work performed under this CONTRACT qualifies as "public works".

3. INSURANCE

3.1.1 Prior to the provision of services under this CONTRACT, the A-E agrees to purchase all required insurance at A-E's expense, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this CONTRACT have been complied with. A-E agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the COUNTY during the entire term of this CONTRACT. The COUNTY reserves the right to request the declarations page showing all endorsements and a certified copy of the policy. In addition, all subcontractors performing work on behalf of A-E pursuant to this CONTRACT shall obtain insurance subject to the same terms and conditions as set forth herein for A-E.

3.1.2 A-E shall ensure that all subcontractors performing work on behalf of A-E pursuant to this CONTRACT shall be covered under A-E's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for A-E. A-E shall not allow subcontractors to work if subcontractors have less than the level of coverage required by COUNTY from A-E under this CONTRACT. It is the obligation of A-E to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by A-E through the entirety of this CONTRACT for

inspection by COUNTY representative(s) at any reasonable time.

3.1.3 All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the COUNTY's Risk Manager, or designee, upon review of A-E's current audited financial report. If A-E's SIR is approved, A-E, in addition to, and without limitation of, any other indemnity provision(s) in this CONTRACT, agrees to all of the following:

1. In addition to the duty to indemnify and hold the COUNTY harmless against any and all liability, claim, demand or suit resulting from A-E's, its agents, employee's or subcontractor's performance of this CONTRACT, A-E shall defend the COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against same; and
2. A-E's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the A-E's SIR provision shall be interpreted as though the A-E was an insurer and the COUNTY was the insured.

3.1.4 If the A-E fails to maintain insurance acceptable to the COUNTY for the full term of this CONTRACT, the COUNTY may terminate this CONTRACT.

A. Qualified Insurer

1. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

2. The policy or policies of insurance maintained by the A-E shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Professional Liability	\$1,000,000 per claims made or per occurrence \$2,000,000 aggregate
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B. Required Coverage Forms

1. The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage as broad.
2. The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

C. Required Endorsements

1. The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:
 - a. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the ***County of Orange, and its respective elected and appointed officials, officers, employees and agents*** as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN AGREEMENT***.
 - b. A primary non-contributing endorsement using ISO form CG 20 01 0413, or a form at least as broad evidencing that A-E's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
2. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against ***the County of Orange, and its respective elected and appointed officials, officers, employees and agents***, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN AGREEMENT***.
3. All insurance policies required by this CONTRACT shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.
4. A-E shall notify COUNTY in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation may constitute a material breach of the CONTRACT, upon which the COUNTY may suspend or terminate this CONTRACT.
5. If A-E's Professional Liability policy is a claims-made policy, A-E shall agree to maintain professional liability coverage for two (2) years following completion of CONTRACT.

6. The Commercial General Liability policy shall contain a severability of interests clause (standard in the ISO CG 001 policy).
7. Insurance certificates should be forwarded to the agency/department address listed on the solicitation.
8. If the A-E fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.
9. COUNTY expressly retains the right to require A-E to increase or decrease insurance of any of the above insurance types throughout the term of this CONTRACT. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.
10. COUNTY shall notify A-E in writing of changes in the insurance requirements. If A-E does not deposit copies of acceptable Certificates of Insurance and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this CONTRACT may be in breach without further notice to A-E, and COUNTY shall be entitled to all legal remedies.
11. The procuring of such required policy or policies of insurance shall not be construed to limit A-E's liability hereunder nor to fulfill the indemnification provisions and requirements of this CONTRACT, nor act in any way to reduce the policy coverage and limits available from the insurer.

4. INDEMNITY/COMPLIANCE

- 4.1 **A-E shall indemnify, defend with counsel approved in writing by COUNTY, and hold harmless, the COUNTY, and its respective agents, officers, and employees from employer sanctions and any other liability which may be assessed against A-E or the COUNTY or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this CONTRACT.**
- 4.2 All PROJECTS/SERVICES submitted by A-E shall be complete and shall be carefully checked prior to submission. A-E understands that COUNTY's checking is discretionary, and A-E shall not assume that COUNTY will discover errors and/or omissions. If COUNTY discovers any errors or omissions prior to approving A-E's PROJECTS/SERVICES, the PROJECTS/SERVICES will be returned to A-E for correction. Should COUNTY or others discover errors or omissions in the work submitted by A-E after COUNTY's approval thereof, COUNTY's approval of A-E's PROJECTS/SERVICES shall not be used as a defense by A-E.
- 4.3 **Indemnification**
 - 4.3.1 **A-E agrees to, indemnify, defend with counsel approved in writing by COUNTY, and hold COUNTY and its respective elected and appointed officials, officers, employees, agents and those special districts and agencies which COUNTY'S**

Board of Supervisors acts as the governing Board (“COUNTY INDEMNITEES”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the A-E. If judgment is entered against A-E and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of A-E and COUNTY or COUNTY INDEMNITEES, A-E and COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment. Notwithstanding anything stated above, nothing contained herein shall relieve A-E of any insurance requirements or obligations created elsewhere in this CONTRACT.

4.4 Bills and Liens

- 4.4.1** A-E shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. A-E shall not permit any lien or charge to attach to the work or the premises, **but if any does so attach, A-E shall promptly procure its release and, in accordance with the requirements of the indemnification paragraph above, indemnify, defend, and hold COUNTY harmless and be responsible for payment of all costs, damages, penalties and expenses arising from or related thereto.**

4.5 Compliance with Laws

- 4.5.1** A-E represents and agrees that services to be provided under this CONTRACT shall fully comply, at A-E’s expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”), including, but not limited to those issued by COUNTY in its governmental capacity and all other laws applicable to the PROJECTS/SERVICES at the time PROJECTS/SERVICES are provided to and accepted by COUNTY.
- 4.5.2** A-E acknowledges that COUNTY is relying on A-E for such compliance, and pursuant to the requirements of the indemnification paragraph above, **A-E agrees that it shall defend, indemnify and hold COUNTY and COUNTY INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.**

5. TERMINATION

5.1 Termination of Contract for Cause

- 5.1.1** If A-E breaches any of the covenants or conditions of this CONTRACT, COUNTY shall have the right to terminate this CONTRACT upon ten (10) days written notice prior to the effective day of termination.
- 5.1.2** A-E shall have the opportunity to cure the alleged breach prior to termination.
- 5.1.3** In the event the alleged breach is not cured by A-E prior to termination, all work performed by A-E pursuant to this CONTRACT, which work has been reduced to plans or other documents, shall be made available to COUNTY.

5.2 Termination for Convenience

- 5.2.1** Notwithstanding any other provision of the CONTRACT, COUNTY may at any time, and without cause, terminate this CONTRACT in whole or in part, upon not less than seven (7) calendar days' written notice to the A-E. Such termination shall be effected by delivery to the A-E of a notice of termination specifying the effective date of the termination and the extent of the Work to be terminated.
- 5.2.2** A-E shall immediately stop work in accordance with the notice and comply with any other direction as may be specified in the notice or as provided subsequently by COUNTY.
- 5.2.3** COUNTY shall pay the A-E for the Work completed prior to the effective date of the termination, and such payment shall be the A-E's sole remedy under this CONTRACT.
- 5.2.4** Under no circumstances will A-E be entitled to anticipatory or unearned profits, consequential damages, or other damages of any sort as a result of a termination or partial termination under this Paragraph.
- 5.2.5** A-E shall insert in all subcontracts that the subcontractor shall stop work on the date of and to the extent specified in a notice of termination, and shall require subcontractors to insert the same condition in any lower tier subcontracts.

5.3 Breach of Contract

- 5.3.1** The failure of the A-E to comply with any of the provisions, covenants or conditions of this CONTRACT shall be a material breach of this CONTRACT. In such event, in addition to any other remedies available at law, in equity, or otherwise specified in this CONTRACT, the COUNTY may:
- a. afford the A-E written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this CONTRACT within which to cure the breach;
 - b. discontinue payment to the A-E for and during the period in which the A-E is in breach; and
 - c. offset those monies disallowed pursuant to the above, against any monies billed by the A-E but yet unpaid by the COUNTY.

5.4 Default

- 5.4.1** In the event any equipment or service furnished by the A-E in the performance of this CONTRACT should fail to conform to the specifications therein within one (1) calendar year from the COUNTY's acceptance of the equipment or service, or any performance period specifically specified within the specifications or CONTRACT, whichever is greater, the COUNTY may reject same, and it shall become the duty of the A-E to reclaim and remove the items without expense to the COUNTY and to immediately replace all such rejected equipment or service with others conforming to such specifications, provided that should the A-E fail, neglect or refuse to do so within one hundred and twenty (120) calendar days, the COUNTY shall have the right to purchase on the open market a corresponding quantity of any such equipment or service and to deduct from any monies due or that may thereafter become due to the A-E the difference between the price specified in this CONTRACT and the actual cost to the COUNTY.

- 5.4.2** In the event the A-E shall fail to make prompt delivery as specified of any equipment or service, the same conditions as to the rights of the COUNTY to purchase on the open market and to reimbursement set forth above shall apply, except as otherwise provided in this CONTRACT.
- 5.4.3** In the event of the cancellation of this CONTRACT, either in whole or in part, by reason of the default or breach by the A-E, any loss or damage sustained by the COUNTY in procuring any equipment or service which the A-E agreed to supply under this CONTRACT shall be borne and paid for by the A-E.
- 5.4.4** Default shall include failure to carry out any of the requirements of this CONTRACT, including, but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the PROJECTS/SERVICES as agreed to herein, or otherwise substantially violating any provision of this CONTRACT.
- 5.4.5** Upon termination of the CONTRACT with A-E, the COUNTY may begin negotiations with a third-party A-E to provide goods and/or PROJECTS/SERVICES as specified in this CONTRACT.
- 5.4.6** The right of either party to terminate this CONTRACT hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

6. MISCELLANEOUS

6.1 Laws to be Observed

- 6.1.1** A-E is assumed to be familiar with and, at all times, shall observe and comply with all federal, state and local laws, ordinances and regulations in any manner affecting the conduct of the PROJECTS/SERVICES.

6.2 Award of Construction Contract and Other Future Contracts

- 6.2.1** A-E is hereby informed that provisions of the Public Contract Code, the Political Reform Act of 1974, other statutes, regulations, and COUNTY policy prohibit, as an impermissible conflict of interest, the award of a contract for the construction of the project(s) on which A-E performed architectural-engineering services under this A-E CONTRACT. A-E is hereby informed that these statutes and regulations could also prohibit the award to A-E of design or other contracts on future phases related to tasks performed by A-E under this CONTRACT. This prohibition applies also to a subcontractor of or parent company of the firm that performed architectural-engineering tasks under this CONTRACT.

6.3 Amendments

- 6.3.1** No alteration or variation of the terms of this CONTRACT shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on COUNTY unless authorized by COUNTY in writing.

6.4 Successors and Assigns

- 6.4.1** The terms and provisions of this CONTRACT shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

6.5 Entirety

- 6.5.1** This CONTRACT contains the entire agreement between the parties with respect to the matters provided for herein.

6.6 Severability

- 6.6.1** If any part of this CONTRACT is held, determined, or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this CONTRACT shall be given effect to the fullest extent reasonably possible.

6.7 Binding Obligation

- 6.7.1** The PARTIES to this CONTRACT represent and warrant that this CONTRACT has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity enforceable in accordance with its terms.

6.8 Governing Law and Venue

- 6.8.1** This CONTRACT has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this CONTRACT, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the PARTIES hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure, Section 394.

- 6.8.2** The PARTIES specifically agree that by soliciting and entering into and performing PROJECTS/SERVICES under this CONTRACT, the A-E shall be deemed to constitute doing business within Orange County from the time of solicitation of work, through the period when all PROJECTS/SERVICES under this CONTRACT is completed, and continuing until the expiration of any applicable limitations period.

6.9 Child Support Enforcement Requirements

- 6.9.1** All Contractors are required to comply with the child support enforcement requirements of the County of Orange. Failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. In order to comply with the child support enforcement requirements of the County of Orange, all bidders/proposers must furnish to the Contract administrator, the Purchasing Agent, or the agency/department Deputy Purchasing Agent:

- A. In the case of an individual Contractor, his/her name, date of birth, Social Security number, and residence address;
- B. In the case of a Contractor doing business in a form other than as an

individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the Contracting entity;

- C. A certification that the Contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- D. A certification that the Contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure to cure such breach within 60 calendar days of notice from the COUNTY shall constitute grounds for termination of the Contract.

- 6.9.2** It is expressly understood that this data will be transmitted by COUNTY to governmental agencies charged with the establishment and enforcement of child support orders and for no other purposes.

6.10 Ownership of Documents

- 6.10.1** All data, including but not limited to letters, reports, files, plans, drawings, specifications, proposals, sketches, diagrams and calculations, prepared by A-E and/or anyone acting under the supervision of A-E pursuant to this CONTRACT, shall become the property of COUNTY upon preparation by A-E and may be used by the COUNTY as it may require without additional cost to the COUNTY.

- 6.10.2** COUNTY shall not be limited in any way to its use thereof at any time, including the release of this data to third parties. A-E shall be held harmless for release of such data as may be prepared or created under this CONTRACT to any third party. If A-E and/or anyone acting under the supervision of A-E should later desire to use any of the data prepared in connection with this CONTRACT, A-E shall first obtain the written approval of COUNTY.

6.11 Confidentiality

- 6.11.1** All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, and all written or other information submitted to A-E in connection with the performance of this CONTRACT shall be held confidential by A-E and/or anyone acting under the supervision of A-E and shall not, without the prior written consent of COUNTY, be used for any purposes other than the performance of the PROJECTS/SERVICES described in Attachment A, nor be disclosed to any person, partnership, company, corporation or agency, not connected with the performance of the PROJECTS/SERVICES.

- 6.11.2** Nothing furnished to A-E which is generally known among counties in Southern California shall be deemed confidential.

- 6.11.3** A-E and/or anyone acting under the supervision of A-E shall not use COUNTY name or insignia, photographs of the work, or any other publicity pertaining to the work in any magazine, trade paper, newspaper, or other medium without the express written consent of COUNTY.

6.12 Publication

6.12.1 No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this CONTRACT, are to be released by A-E and/or anyone acting under the supervision of A-E to any person, partnership, company, corporation, or agency, without prior written approval by the COUNTY, except as necessary for the performance of the services of this CONTRACT. All press contacts, including graphic display information to be published in newspapers, magazines, etc., are to be administered only after COUNTY approval.

6.12.2 The A-E agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this CONTRACT or any subsequent amendment of, or effort under this CONTRACT. A-E must first obtain review and approval of said media contact from the COUNTY through the COUNTY'S Project Manager. Any requests for interviews or information received by the media should be referred directly to the COUNTY. A-E's are not authorized to serve as media spokespersons for COUNTY projects without first obtaining permission from the COUNTY Project Manager.

6.13 Records and Audit/Inspections

6.13.1 A-E shall keep an accurate record of time expended by A-E and/or consultants employed by A-E in the performance of this CONTRACT.

6.13.2 Within ten (10) days of COUNTY's written request, A-E shall allow COUNTY or authorized State or Federal agencies or any duly authorized representative to have the right to access, examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards or other records relating to this CONTRACT.

6.13.3 A-E shall keep such material, including all pertinent cost accounting, financial records and proprietary data for a period of three (3) years after termination or completion of the CONTRACT or until resolution of any claim or dispute between the PARTIES, whichever is later.

6.13.4 Should A-E cease to exist as a legal entity, records pertaining to this CONTRACT shall be forwarded within a reasonable period of time not to exceed sixty (60) days to its successor in interest or surviving entity in a merger or acquisition, or, in the event of liquidation, to COUNTY.

6.14 Notices

6.14.1 Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the PARTIES' project managers' routine exchange of information and cooperation during the PROJECTS/SERVICES.

6.14.2 Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt, or no greater than four (4) calendar days after being mailed by U. S. certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day.

County of Orange
Thirtieth Street Architects, Inc.

- 6.14.3** All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

For A-E:

Thirtieth Street Architects, Inc.
2821 Newport Blvd
Newport Beach, CA 92663
Attn: James C. Wilson
Phone: 949-673-2643
E-mail: jw@tsainc.us

For COUNTY:

OC Parks
13042 Old Myford Rd
Irvine, CA 92602
Attn: Scott Thomas, Manager – Planning & Design
Phone: 949-923-3757
E-mail: Scott.Thomas@ocparks.com

cc: OC Public Works Procurement Services
300 N. Flower St., Suite 838
Santa Ana, CA 92703
Attn: Christina Rojas
Phone: 714-667-9765
E-mail: Christina.Rojas@ocpw.ocgov.com

6.15 Attorney's Fees

- 6.15.1** In any action or proceeding to enforce or interpret any provision of this CONTRACT, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.

6.16 Interpretation

- 6.16.1** CONTRACT has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this CONTRACT.
- 6.16.2** In addition, each PARTY has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite having the opportunity to do so.
- 6.16.3** Each PARTY further acknowledges that they have not been influenced to any extent whatsoever in executing this CONTRACT by any other PARTY hereto or by any person representing them, or both.
- 6.16.4** Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this CONTRACT against the PARTY that has drafted it is not applicable and is waived.
- 6.16.5** The provisions of this CONTRACT shall be interpreted in a reasonable manner to affect the purpose of the PARTIES and this CONTRACT.

6.17 Headings

6.17.1 The various headings and numbers herein, the grouping of provisions of this CONTRACT into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

6.18 Acceptance

6.18.1 Unless otherwise agreed to in writing by COUNTY acceptance shall not be deemed complete unless in writing and until all the services have actually been received, inspected, and tested to the satisfaction of COUNTY.

6.19 Changes

6.19.1 A-E shall make no changes in the work or perform any additional work without the COUNTY'S specific written approval.

6.20 Assignment

6.20.1 The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this CONTRACT nor any portion thereof may be assigned or sub-contracted by A-E, by any means whatsoever including but not limited to acquisition by merger, without the express written consent of COUNTY. Any attempt by A-E to assign or sub-contract the performance or any portion thereof of this CONTRACT without the express written consent of COUNTY shall be invalid and shall constitute a breach of this CONTRACT.

6.21 Changes in Ownership

6.21.1 A-E agrees that if there is a change or transfer in ownership, including but not limited to merger by acquisition, of A-E's business prior to completion of this CONTRACT, the new owners shall be required under terms of sale or other transfer to assume A-E's duties and obligations contained in this CONTRACT and to obtain the written approval of COUNTY of such merger or acquisition, and complete the obligations and duties contained in the CONTRACT to the satisfaction of COUNTY. A-E agrees to pay, or credit toward future work, COUNTY's costs associated with processing the merger or acquisition.

6.22 Force Majeure

6.22.1 A-E shall not be assessed with damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this CONTRACT caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided A-E gives written notice of the cause of the delay to COUNTY within thirty-six (36) hours of the start of the delay and A-E avails himself of any available remedies.

6.23 Calendar Days

6.23.1 Any reference to the word “day” or “days” herein means calendar day or calendar days, respectively, unless otherwise expressly provided.

6.24 Title to Data

6.24.1 All materials, documents, data or information obtained from the COUNTY data files or any COUNTY medium furnished to the A-E in the performance of this CONTRACT, will at all times remain the property of the COUNTY. Such data or information may not be used or copied for direct or indirect use by the A-E after completion or termination of this CONTRACT without the express written consent of the COUNTY.

6.24.2 All materials, documents, data or information, including copies furnished by COUNTY and loaned to A-E for his temporary use, must be returned to the COUNTY at the end of this CONTRACT unless otherwise specified by the DIRECTOR.

6.25 Availability of Funds

6.25.1 The obligation of COUNTY is subject to the availability of funds appropriated for this purpose, and nothing herein shall be construed as obligating the COUNTY to expend or as involving the COUNTY in any contract or other obligation for future payment of money in excess of appropriations authorized by law.

6.26 Contingency of Funding

6.26.1 A-E acknowledges that funding or portions of funding for this CONTRACT may also be contingent upon receipt of funds from, and/or appropriation of funds by, the State of California or other funding sources to COUNTY. If such funding and/or appropriations are not forthcoming, or otherwise limited, COUNTY may immediately terminate or modify this CONTRACT without penalty.

6.27 Contract Construction

6.27.1 The parties acknowledge that each party and its counsel have reviewed this CONTRACT and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this CONTRACT or any amendment or exhibits hereto.

6.28 Conflicts of Interest

6.28.1 A-E or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the “Act”), which (1) requires such persons to disclose any financial interest that may be materially affected by services provided under this CONTRACT, (2) prohibits such persons from making, or participating in making, decisions that could reasonably affect such interest; and (3) may require the filing a Statement of Economic Interest (Form 700).

6.28.2 If subject to the Act, A-E shall conform to all requirements of the Act. Failure to do so shall constitute a material breach and is grounds for immediate termination of this CONTRACT by COUNTY. Pursuant to Section 4.3 “Indemnification”, A-E shall indemnify and hold harmless COUNTY for any and all claims for damages resulting from Contractor’s violation of this Section.

6.29 Usage

- 6.29.1** No guarantee is given by the COUNTY to A-E regarding usage of this CONTRACT. The A-E agrees to supply services requested, as needed by the County of Orange, at prices listed in the CONTRACT, regardless of quantity requested.

6.30 Cooperative Agreement

- 6.30.1** The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use the pre-negotiated prices and terms in this Contract will be responsible for issuing their own purchase documents/contracts, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any contract entered into with another department or entity that is entered into and incorporates by reference the pre-negotiated prices and terms of this Contract a contractual clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this Contract. Failure to do so will be considered a material breach of this Contract by Contractor and grounds for immediate Contract termination. Departments or entities making use of the pre-negotiated prices and terms of this Contract are responsible for obtaining all certificates of insurance and bonds required when entering into their own contract. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.
- 6.30.2** The Contractor shall be required to maintain a list of the cooperative entities using this Contract. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request

County of Orange
Thirtieth Street Architects, Inc.

IN WITNESS WHEREOF, the PARTIES hereto have executed this CONTRACT on the dates opposite their respective signatures:

THIRTIETH STREET ARCHITECTS, INC.
a California Corporation,

Date: 4/3/2018

By: _____
Signature

DocuSigned by:
James C. Wilson
D6FDFFAB855A4B3...

James C. Wilson President
Print Name & Title

(If a corporation, the document must be signed by two corporate officers. The 1st must be either Chairman of the Board, President or any Vice President.)

Date: 4/3/2018

By: _____
Signature

DocuSigned by:
John C. Loomis
A71545904C134FC...

John C. Loomis Secretary and CFO
Print Name & Title

(If a corporation, the 2nd signature must be either the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer)

COUNTY OF ORANGE,
a political subdivision of the State of California

Date: _____

By: _____

Print
Name: _____

Title: _____

APPROVED AS TO FORM
Office of the County Counsel
Orange County, California

By: _____
Deputy Justin Graham 4/3/2018
3B7688FE3BD64E0...

ATTACHMENT A
SCOPE OF WORK
“ON-CALL” ARCHITECT/ENGINEER (A/E) DESIGN PROFESSIONAL CONSULTANT
HISTORICAL ARCHITECTURAL SERVICES

The County of Orange (hereinafter “County”) through its Orange County Community Resources/ OC Parks agency (hereinafter “OCCR” and “OCP”) manages and operates a system of facilities of regional parks, beaches, harbors, trails and historic sites.

Introduction/Purpose

OC Parks requires supplemental Architect-Engineer (hereinafter “A-E”) design and professional consultant services to meet workload demands and project scheduling commitments for implementation of capital improvement and rehabilitation projects for the historical facilities that it manages. In addition, this on-call agreement is also for miscellaneous small projects that are anticipated but are not yet defined. OCP has eight (8) historic facilities under its system: Arden/Modjeska Historic House and Gardens, Cooper Center, Heritage Hill Historical Park, Irvine Ranch Historic Park, George Key Ranch Historic Park, Old Orange County Courthouse, Ramon Peralta Adobe Historic Site, and the Historic Yorba Cemetery.

The total amount of contracted work that will be required on an “as-needed” basis shall not exceed **\$250,000** unless otherwise approved by the Board of Supervisors. Because of its on-call nature, there is no guarantee of any minimum amount nor any assurance that OCP will utilize the maximum contract amount throughout the term of the contract.

Throughout the remainder of this document the term “A-E” shall refer to the Architect/Engineer or professional consultant providing services and “OCCR” and “OCP” shall refer to the OCCR Director or OC Parks Director, respectively, or their designated staff who shall be administering the CONTRACT, unless stated otherwise. “CONTRACT” shall refer to the written agreement between the A-E and the County of Orange (hereinafter “COUNTY”).

The historical architect working under this on-call services contract shall respond to the County request for professional design and consulting work within two (2) business days.

A-E working under this on-call A-E contract is expected to be available on short notice (less than two hours) in the event of any urgent need or emergency condition on any of its historical facilities.

The County reserves the right to refuse any work that it finds unacceptable and/or unauthorized at no charge.

Scope of Work

There are two parts to this Scope of Work. **Part I** or “General Scope of Work” describes the general “On Call” services to be provided as part of the CONTRACT, and describes the administrative process of the CONTRACT. **Part II** or “Specific Scope of Work” describes the specific “On-Call” services to be provided as part of the CONTRACT for various disciplines of work.

Part I – General Scope of Work

1. Contract Task Order

After award of CONTRACT by the COUNTY's Board of Supervisors, A-E shall be assigned work via a task order by OCP which shall subsequently be referred to as the "Contract Task Order" (hereinafter "CTO"). A CTO for each project shall be developed by A-E in conjunction with OC Parks. OCP shall assign a project manager (hereinafter "OCPM") for each CTO who shall work with the assigned A-E Project Manager ("A-E PM"). OCPM shall manage all A-E's work including monitoring the CTO work schedule, quality of deliverables, review of invoiced amounts, adherence to set budget, and internal review of submittal packages. A-E shall follow the requirements as outlined in the CTO, this General and Specific Scope of Work.

The CTO shall include a detailed scope of work, describing tasks to be performed with a specific list of deliverables for each task, schedule of work and cost to complete the work. The schedule of work shall allow sufficient time for meetings with OCP staff to review the work progress, provide technical and policy direction, resolve problems and ensure adherence to the work completion schedule. The CTO shall include a cover sheet provided by OCP with the appropriate signature blocks and contract information. After OCP and A-E are in agreement and all parties have signed the CTO, OCP shall provide A-E with a Notice to Proceed to begin work.

Should the A-E fail to show satisfactory progress with the work requested, the CTO may be terminated by the OCPM and any monies owed to the A-E for work completed prior to the effective date of termination will be paid and such payment shall be the A-E's sole remedy under this CONTRACT.

A-E shall submit all plans, reports and other documents produced under the CTO to the OCPM within the timeframe indicated in the contract task order or as directed by OCP.

2. Extra Work

Extra work shall be per the CONTRACT Section 1.5.

In the event extra work is required, the Schedule of Fees, as submitted by A-E in the CONTRACT (Attachment B), shall determine the basis of payment for extra work.

3. A-E Changes Affecting Contract Work

- A. A proposed change in the A-E's designated project manager (as stated in Section 1.1 "Retainer" subdivision 2 in the CONTRACT) to provide and respond to the project/service requests of OCCR, require approval from the County before the actual replacement and appointment of another individual. An administrative process shall be followed to reflect OCCR's approval of the new designation.

- B. A change in the A-E's office location or a new payment address for the A-E requires written notification to the OCCR Contract Administrator. A-E PM shall coordinate all changes with the OCPM and the OCCR Contract Administrator.
- C. Other changes to the A-E's business organization including, but not limited to, a revision in the A-E's legal entity name (i.e., name entered into contract with the County) , a change in federal tax identification number and/or notices of a merger, addition or replacement of the principals in the A-E firm, a change in ownership, the implementation of a new business structure or organization, and any other similar changes should be communicated in writing to the OCCR Contract Administrator in a timely manner. Amendment of the A-E CONTRACT and/or Board approval may be required in some instances and failure to timely notify the County may result in a delay in payments to A-E.
- D. Modifications affecting the CTO work such as the use of an added labor classification or subcontracted work not previously included in the CTO's scope of work; a revision of the CTO's previously approved schedule or deliverables; and requests for additional reimbursables or substitution of designated labor classifications used in the task order shall be submitted in writing to the OCPM. After approval, OCPM will notify A-E PM of required procedures and documentation **before** authorizing the A-E to proceed with the work.
- E. Pursuant to Section 6.19 ("Changes") of the CONTRACT, A-E shall make no changes in the scope of work, project schedule or required deliverables, nor perform any additional work, other than what was stipulated and agreed upon in the CTO, without OCCR's specific written approval. There shall be no compensation for unauthorized work and/or unauthorized changes in the CTO.

4. Reimbursable Items of Work

Reimbursable items of work include non-salary expense items that are deemed necessary for the work. A budgetary cost for reimbursables shall be submitted with each CTO. If A-E is unsure whether or not an item is eligible for reimbursement, A-E shall discuss with OCPM **prior** to expensing the item. Potential reimbursable items not included in the CTO's scope of work or schedule of fees shall be presented in advance of invoice submittal to OCPM with supporting documentation for review and approval.

Items Considered Reimbursable Direct Costs

All of the reimbursable items shall be discussed during the preparation of the CTO and agreed upon by both A-E and OCPM for inclusion in the CTO at direct cost.

- A. Identifiable communication expense (large packages or express, overnight or next day mail when requested or required by OCPM), other than for general correspondence required for the performance of the work.
- B. Identifiable printing or reproduction services, commercial printing

and binding, and similar costs that are not applicable to general overhead required for the performance of the work. A-E shall not automatically categorize these reproduction and printing charges as reimbursable costs. OCCR may determine that some reproduction expenses fall under the category of general overhead, in which case these costs shall not be included in the CTO. A-E shall submit estimated schedule of values for standard printing and reproduction costs to OCPM for comparison against OCCR's reproduction service vendor costs; the most cost-effective method of printing and reproduction shall be utilized. If the OCCR service vendor costs are deemed more cost effective, the A-E will be required to coordinate all reproduction orders with the OCPM and OCCR service vendor. Reimbursement of pre-approved printing or reproduction costs shall be specified in the CTO. Supporting documentation such as receipts and paid invoices are required by the Auditor-Controller for reimbursement of such expenses.

- C. Third-party services directly applicable to the work, such as: specialized services which cannot be accomplished by A-E or by any of A-E's listed subcontractors under Section 1.1.3 of the CONTRACT (i.e., corrosion engineering, electrical, mechanical, etc.), special accounting expenses, special consultants, outside laboratory charges, and similar costs that are not applicable to general overhead. A-E shall obtain approval from OCCR prior to considering third party services for reimbursement and shall submit the proper documentation required by OCCR for requesting the use of third-party services in the CTO. OCCR reserves the right to refuse the use of any specialized service that may be recommended by the A-E.

All work conducted by special consultants/contractors on behalf of A-E under Section 1.1.3, shall be considered as part of the forty-nine percent (49%) allowable portion of the CONTRACT that can be accomplished by subconsultants.

NOTE: A-E shall obtain approval from OCCR prior to considering computer expense reimbursement for any A-E third party services. In-house computer time is not considered a reimbursable item and shall be included as part of A-E fee, listed in A-E Schedule of Fees, Attachment B of the CONTRACT.

- D. Materials used for in-house testing, laboratory and field supplies.
- E. Permit fees, application fees, and filing fees. Permit, filing and application fees shall be reimbursed at cost and therefore, not subject to any surcharge or additional service charge by the A-E.
- F. Mileage and parking fees for field work and meetings outside Orange, Los Angeles, San Bernardino, Riverside and San Diego Counties. Requests for this reimbursable item of work must be approved **prior** to the start of work and A-E's incurrence of such costs. A-E's distance from project location does not constitute a valid reason for any delay in performance.
- G. All costs associated with "Reimbursable Items of Work," shall be considered as included in (**not in addition to**) the total Contract Task Order, excluding extra work, as specified in Section 1.5 "Extra Work" and no additional compensation will be

allowed. All requests for additional reimbursable items that were not included in the approved CTO's scope of work or schedule of fees breakdown shall be submitted to OCPM for approval **prior** to incurring the costs. After approval, OCPM will notify A-E PM of the required procedures and documentation before authorizing the A-E to proceed with using the item(s) in question in the CTO work. Documented approval of an added or substituted reimbursable item is required by the Auditor-Controller to process the submitted A-E's invoice for payment.

Payment to A-E shall be conditioned upon approval by OCCR and A-E providing an invoice with copies of the tickets, receipts, invoices or other proof of payment by A-E. A-E shall use the payment request template provided by OCCR for each approved CTO when submitting the invoice and supporting documents to the County. Payment to A-E for all Reimbursable Items of Work shall be per CTO.

Items Not Considered Reimbursable

The County reserves the right to refuse any work that it finds unacceptable and/or unauthorized at no charge.

- A. Hotel and meal expenses for A-E employees during the course of working on the CTO.
- B. Vehicle rental and equipment use rentals.
- C. Mileage and parking fees, and other transportation costs such as airfare, train or bus tickets paid to attend meetings, seminars, training sessions, field/site observations and comparisons, and/or conferences within the counties of Orange, Los Angeles, San Bernardino, Riverside and San Diego are considered general overhead and therefore, not reimbursable.
- D. Computer-Aided Drafting and Design, computerized engineering software, scheduling software, and subsequent equipment operation related to the production of attachments, reports, submittals and study documentation which shall be considered included in the cost of general overhead and included in the hourly personnel rates for the CTO.
- E. General overhead costs such as accounting, computer rentals, and items generally required for the basic operations of daily business directly related to this project.
- F. Standard plans, standard specifications, reference manuals, books, periodicals, or other written materials used to complete the CTO.
- G. Local telephone, FAX, email and internet use.
- H. Any costs other than those explicitly authorized in Section 4 above, unless written approval has been obtained in advance from the OCCR.

5. Invoices

- A. A-E shall be required to submit the updated project schedule with the monthly invoices for services including those provided by the subconsultants. Payments to A-E invoiced on a monthly basis shall not exceed the total authorized CTO amount. A-E monthly invoices shall be subject to OCCR approval in accordance with progress of work, deliverables submitted, and tasks completed based on the approved updated Project Schedule.
- B. OCCR shall provide a payment request template with contract information for each approved CTO. A-E shall complete this template and submit the filled-in form with their invoices and backup documents (receipts, etc.) to OCPM. Subconsultants shall follow the same format for billing to A-E.
- C. For time and material work, as well as for lump sum work, A-E shall use the payment request template provided by OCCR for the specific CTO and submit the filled-in form with their supporting documentation such as receipts, logs showing the breakdown of the performed task, amount of time spent on each task by staff title, hourly rate charged and costs totaled for each staff member, etc.

Labor classification and associated hourly rate charged shall be as indicated on the approved CTO schedule of fees. All labor classifications and hourly fees included on the CTO shall reflect those listed in Attachment B (Schedule of Fees) of the A-E's Board-approved on-call CONTRACT. A-E shall submit a written request to include a new staff title with its hourly rate in the CTO if such classification is not part of the Board-approved CONTRACT's Attachment B (Schedule of Fees) and in order for consideration and approval by OCCR. In some instances, this may require further approval by the Orange County Board of Supervisors.

- D. A-E shall also show on the invoice a complete accounting for reimbursable items as described above in Section 4. All reimbursable items shall be invoiced and paid for at actual costs. A-E is responsible for providing OCCR with an acceptable invoice. An invoice determined not to be a proper invoice suitable for payment will be returned to A-E for correction, with a statement setting forth the reasons for rejection.
- E. Payment to A-E shall be within thirty (30) days of receipt and approval of the invoice by OCCR. A retention of ten percent (10%) shall be withheld each month from the cumulative amount due to A-E on each separate item of work. It is A-E's responsibility to submit the retention release invoice request upon completion of project services. Payment of the remaining ten percent (10%) on each separate item of work shall be made upon acceptance and approval of said item of work by OCCR.

6. Deliverable Items of Work

Deliverable items of work may include engineering reports, concept plans, construction documents (plans, specifications & cost estimate), graphic renderings of concepts, plans, sections and details, sample boards of materials and colors used for construction, construction inspection, environmental documents, regulatory permits and contract administration/contract management services.

Deliverable items of work for each CTO shall be per the CTO approved by OCCR and agreed to by A-E. Format (e.g. correspondence, text, graphics, CAD standards) for deliverables shall be per the CTO. The minimum requirements for word processing, spreadsheet and PowerPoint documents shall be compatible with OCCR's standards, i.e., MS Office, for project schedule shall be MS Project version 2010 and CAD plans shall be AutoCAD. All deliverables shall also be provided in hard copy, e-copy (via selected software) and Adobe PDF format.

7. Items Provided by OCCR

Items provided by OCCR may include historical documents, legal descriptions, record drawings etc., and shall be specified in the CTO.

8. Bidding, Construction and Post Construction Support Services

The A-E may be asked to provide the following support services: bid review, responding to questions during the bid period, attending the pre-bid, pre-construction and construction meetings; review and response to contractor deliverables (including but not limited to material samples and product submittals, shop drawings, RFIs and change orders), site visits during construction to resolve issues, providing recommendation for construction issues, addenda/bulletin issuance, review of punch list & close-out documents (i.e., equipment user/operating manuals, etc.) and the review of contractor redline "as-builts." The A/E may also be required or requested to provide post-construction services such as the production of final mylars of "as-builts", post-occupancy evaluations and other related services. These support services shall be identified in the CTO's scope of work.

9. Project Schedule & Reviews

A. Project Schedule

A-E shall submit a project schedule in MS Project or MS Project-compatible format for completion of all required CTO work including deliverables to OCCR within one (1) week of Notice to Proceed. This schedule shall allow sufficient time and include meetings with OCCR to review the deliverables, work progress, to provide technical and policy direction, resolve problems and insure adherence for the work completion.

A-E shall coordinate with OCPM on the project schedule format and work breakdown structure (WBS) tasks. A-E shall provide schedule updates and comments to OCPM on a monthly basis at a minimum, or per CTO. OCPM shall baseline and track the work schedule based on A-E's input and schedule updates. Delays in completion of critical path tasks due to unforeseen issues shall be brought to the immediate attention of OCCR and upon mutual agreement, shall be documented in each schedule update.

B. Reviews

The project schedule shall indicate any review periods for the County and/or other agency as part of the task. A thorough professional quality control review by A-E for project submittals includes, but is not limited to, reviewing the quantify and cost calculations, spelling and grammar errors, formatting, graphics, font consistency, referencing of details, titling, etc. This review should be extended to each of the A-E's subconsultants' prepared documents and submittals

10. Project Management & Meetings

A. Project Management

OCP adheres to the Project Management Institute's Standards and Guidelines (PMI methodology) of managing construction projects. This methodology provides the following items: Work breakdown structure, project schedule, responsibility matrix, and communication plan.

Therefore, A-E is expected to provide adequate staffing resources qualified in the areas of expertise that meet the project requirements and set schedules. This requires providing backup staffing resources that meet the same project standards and requirements in the event of an emergency situation or of the A-E PM's absence. If A-E does not meet the scheduling criteria for the CTO, OCP reserves the right to cancel the CTO and/or to request a new qualified A-E PM to manage OCP's projects.

B. Meetings

Project meetings shall be scheduled as agreed upon by A-E PM and OCPM on a monthly basis (or as required by CTO). Within three (3) working days following each meeting, A-E PM shall submit meeting minutes identifying Discussion as well as Action Items; OCPM shall provide A-E with the format for the minutes.

11. Communications

A Communications Plan shall be developed by OCPM for each CTO in coordination with A-E PM to determine what is communicated, how it is communicated and to whom it is communicated.

A-E PM shall return email and phone calls within one (1) business day. Should the A-E PM be unavailable for a certain period of time, A-E PM shall assign an interim project manager to take over the CTO tasks and responsibilities in his absence and shall notify the OCPM of this interim designation. A-E warrants that its A-E PM shall keep its designated interim project manager up-to-speed with the status of the County's project and work schedule in order to prevent delays or other problems during A-E PM's absence.

12. Public Outreach and Presentations

A-E may be required to develop, present and/or participate in public meetings and stakeholder information outreach efforts. Preparation of visual presentations using

PowerPoint, image boards, and any other media and/or written technical information may also be required as part of the public meeting and presentation.

Attendance and any required participation in specific public presentations/ meetings shall be identified in each CTO.

Part II – Specific Scope of Work for Historical Architectural Services

Requirements of A-E (Historical Architect)

A-E shall be responsible for assembling, coordinating and managing a team of subconsultants necessary to provide a complete project. A-E shall be the primary point of contact and shall be responsible for the project schedule, conducting meetings with OCP as well as subconsultants, managing correspondence and submitting the CTO deliverables. A-E shall also be responsible for quality control and the oversight of the entire project per the CTO.

A-E shall be responsible for, but not limited to, providing the following general services:

A. Site Planning

Planning services include site development, project program planning, preliminary and final design concept.

B. Historical Architecture

The architecture services include, but are not limited to: the provision of design development and construction documents: building program outline, alternative building design concepts, specific building design (e.g. site plan, floor plan, roof plan, sections, details, etc.), Plans, Specifications & Estimates (PS&Es) for site, landscape, floor plans, space planning, costing, schedules and phasing plans, building permits & other entitlement approvals, energy efficiency (LEED), MEP and/or other required features specific to the project..

A-E shall also provide pre-design services such as project scoping; visioning; program review; establishing budget requirements; review of existing policy or other project background documents (i.e., CEQA); and coordination of kick-off meetings.

The A-E shall ensure strict adherence to the State Historical Building Code and compliance with the Secretary of Interior Standards for Rehabilitation of Historic Properties. A-E shall ensure care and sensitivity to the historic buildings and grounds for the ultimate purpose of its preservation.

Architecture services shall include bidding, construction and post construction services as specified in the CTO. Examples of these services are: attendance at pre-bid, pre-construction and construction meetings; review and response to contractor inquiries; site visits during construction to resolve issues; recommendation for issue resolution; addenda & bulletin issuance; review of punch list & close-out documents; and review of contractor redline “as-builts”.

C. Landscape Architecture

Landscape Architecture services including development of design concept and final plans, production of construction documents (e.g. hardscape plan, planting plans, irrigation plan, sections, details, etc.) project specifications and cost estimates.

D. Engineering

Engineering services including preparation of project reports, development of utility plans (sewer, water (storm water, domestic and fire protection), electrical and telecommunications), HVAC plan, grading, drainage, water quality management plans and hydrology studies.

Engineering expertise may also be required on roads, drainage courses, parking areas, slopes, and water features (lakes, creeks and channels).

E. Surveying

Survey services including surveys indicating topography, cross sections, spot elevations, aerials, research of legal descriptions, easements and other right of way documents.

F. Geotechnical Engineering

Geotechnical services including geotechnical investigations and/or calculations and incorporate findings and recommendations into final design solutions.

G. Utilities

Utility services including initial and second utility notice coordination with the utility companies within project limits. Utility contact information including identifying permits and associated fees required to connect to existing utilities. A-E shall ensure that project's final design is compatible with all utilities in project area and identify utilities to be installed, relocated, adjusted or modified. A-E shall also provide utility dispositions identifying existing utility locations above and below ground by station, offset and elevation.

H. Structural Engineering

Structural engineering services including calculations and drawings for buildings or landscape design elements.

I. Plans, Specifications & Cost Estimates

A-E shall provide plans including, but not limited to, schematic, conceptual design and/or final construction documents suitable for permit approvals, public bidding and construction execution. A-E shall coordinate and ensure thorough quality assurance/ quality control on all subconsultants' work packages without relying on OCP's input or discovery of any errors and omissions. Work package acceptance does not imply approval of A-E errors or omissions.

A-E shall provide project specifications including all categories for general, materials, execution and/or installation for each trade category as required in each project. A-E is responsible for working and coordinating with OCPM regarding the “front end” specifications that are governed by County law or OCP directives, local codes and other legal mandates. Minimum specifications requirements shall follow the latest edition of CSI format and/or Standard Specifications for Public Works Construction “Greenbook” depending on the type of project and as directed by the OCPM.

A-E shall provide cost estimates for all project design phases or as specified in the CTO. At a minimum, an accurate cost estimate shall be prepared based on the final construction bid documents. Estimates shall reflect accurate and detailed material quantities and current costs based on bidding climate.

ATTACHMENT B
COST/COMPENSATION

- I. COMPENSATION:** This is a time and materials usage CONTRACT between COUNTY and A-E for On-Call Historical Architecture Services as set forth in Attachment A, "Scope of Work".

A-E agrees to accept the specified compensation as set forth in this CONTRACT as full remuneration for performing all services and furnishing all staffing, labor, vehicles, equipment, tools, materials, overhead, travel, etc. required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by A-E of all its duties and obligations hereunder. A-E shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. **COUNTY shall have no obligation to pay any sum in excess of the Total CONTRACT Amount specified herein below unless authorized by amendment in accordance with Paragraphs 6.3 and 6.19 of the COUNTY CONTRACT Terms and Conditions.**

- II. PRICING:** Payment shall be made in accordance with the provisions of this CONTRACT. Partial progress payments may be allowed at the discretion of the COUNTY Project Manager. Payment shall be as follows:

A. Classification Rates:

THIRTIETH STREET ARCHITECTS, INC.	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Architect	\$ 170.00
Licensed Architect	\$ 145.00
Project Manager	\$ 135.00
Draftsperson	\$ 110.00

*Subcontractor – Structural Focus, Structural Engineer	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Principal	\$ 210.00
Design Engineer	\$ 110.00
CAD	\$ 80.00
Admin/Clerical	\$ 35.00

*Subcontractor – Glumac, MEP Engineering	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Principal	\$ 275.00
Project Engineer	\$ 135.00
Designer	\$ 95.00
CAD	\$ 80.00

*Subcontractor – RHA Landscape, Landscape Architect	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Senior Principal	\$ 190.00
Principal Landscape Architect/Principal Planner	\$ 150.00
Associate Landscape Architect/Associate Planner	\$ 130.00
Landscape Architect/Project Manager/Senior Des.	\$ 115.00
Designer II/CAD Operator II/Project Captain	\$ 85.00
Designer/CAD Operator/Administrative Personnel	\$ 75.00
Clerical/Professional Staff	\$ 65.00

*Subcontractor – Civil Works Engineers, Civil Engineer	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Principal	\$ 165.00
Senior Project Manager	\$ 150.00
Senior Engineer	\$ 130.00
Project Engineer	\$ 115.00
Senior Designer	\$ 110.00
Jr. Engineer/Designer	\$ 90.00
CAD Technician	\$ 80.00
Administrative Support	\$ 60.00

*Subcontractor – Geotechnical Solutions, Geotechnical Engineer	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Licensed Engineer/Geologist	\$ 160.00
Project Engineer/Geologist	\$ 140.00
Field Technician	\$ 85.00
Lab Testing	\$ 85.00
Word Processing/Clerical	\$ 55.00

*Subcontractor – Leslie Bradley Design, Interior Design	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Principal Interior Design	\$ 130.00

*Subcontractor – Jan Ostashay & Associates, Architectural Historian	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Architectural Historian 3	\$ 130.00

*Subcontractor – Iskander & Associates, Cost Estimator	
<u>Classification Titles</u>	<u>Hourly Rate</u>
Principal	\$ 159.00
Senior Overall Estimator	\$ 122.00
Senior Architectural Estimator	\$ 122.00
Senior Mechanical/Electrical Estimator	\$ 122.00
Senior Civil Estimator	\$ 100.00
Architectural Estimator	\$ 90.00
Structural Estimator	\$ 90.00
Mechanical/Electrical Estimator	\$ 90.00
Civil Estimator	\$ 90.00
Clerical	\$ 55.00

This hourly rate schedule is in effect until the expiration of this Agreement.

*COUNTY will not pay A-E more than the listed amount for Sub-Contractor work, regardless of any agreement between the A-E and their Sub-Contractor. Sub-Contractor rates are listed for convenience only.

B. Total CONTRACT Amount Shall Not Exceed: \$250,000

III. PRICE INCREASES/DECREASES: No price increases will be permitted during the term of this CONTRACT. All price decreases will automatically be extended to COUNTY.

IV. FIRM DISCOUNT AND PRICING STRUCTURE: A-E guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. A-E agrees that no price increases shall be passed along to COUNTY during the term of this CONTRACT not otherwise specified and provided for within this CONTRACT.

V. A-E'S EXPENSE: A-E will be responsible for all costs related to photo copying, telephone communications and fax communications while on COUNTY sites during the performance of work and services under this CONTRACT.

VI. REIMBURSABLE ITEMS: Reimbursable items are non-salary items that are not included in the Scope of Work but necessary for completion of the work and must be authorized in advance by the COUNTY Project Manager. A-E may be entitled to reimbursement for the following, upon prior approval by COUNTY:

- 1) The actual costs of special equipment to be rented, leased or purchased by A-E for use exclusively in the performance of the Scope of Services, to the extent such rental, lease, purchase and costs have been approved in writing by the COUNTY Project Manager.
- 1) Printing expenses paid to outside contractors; to the extent such contractors and reproduction rates have been approved by the COUNTY Project Manager.
- 2) Other actual costs and/or payments specifically approved and authorized in writing by the COUNTY Project Manager and actually incurred by A-E in performance of this Contract.
- 3) Travel costs shall only be reimbursed if approved in advance in writing by COUNTY Project

Manager and are subject to the following restrictions:

- a) Reimbursement of mileage for the business use of a personal vehicle during the conduct of business within the Scope of Services of this CONTRACT shall be based on the Internal Revenue Service Standard Mileage Rate in effect at the time. Mileage between the A-E's "Home Based" office location and COUNTY location, as well as mileage within COUNTY property will not be reimbursed.
- 4) Cost of "Home Based" Xerox copies, faxes, and other supplies and materials associated with them will not be reimbursed.
- 5) Cost of cellular phones, cell phone usage plans and usage minutes, and other mobile communication devices will not be reimbursed.
- 6) All reimbursable expenses must be itemized on A-E invoice(s) and documented with receipts. Receipts for reimbursable expenses must be submitted with all A-E invoices. Invoices for reimbursable expenses without back-up receipts will not be paid. A-E is responsible for submitting reimbursable invoices in a format that is acceptable to the COUNTY. Reimbursable items shall be charged at cost. Any third-party or subcontractor services shall also be charged at cost; no mark-ups will be allowed.

VII. PAYMENT TERMS: Invoices are to be submitted in monthly arrears, after services have been completed, to the address specified below. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to the COUNTY, as applicable. Invoices shall be verified and approved by COUNTY and subject to routine processing requirements. The responsibility for providing an acceptable invoice to COUNTY for payment rests with A-E. Incomplete or incorrect invoices are not acceptable and will be returned to the A-E for correction.

Billing shall cover services and/or goods not previously invoiced. The A-E shall reimburse the COUNTY for any monies paid to the A-E for goods or services not provided or when goods or services do not meet the CONTRACT requirements.

Payments made by COUNTY shall not preclude the right of COUNTY from thereafter disputing any items or services involved or billed under this CONTRACT and shall not be construed as acceptance of any part of the goods or services.

VIII. INVOICING INSTRUCTIONS: The A-E will provide an invoice on the A-E's letterhead. Each invoice will have a unique number and will include the following information:

- A. A-E's name and address
- B. A-E's remittance address, if different from (A), above
- C. Name of COUNTY agency/department
- D. Delivery/service address
- E. CONTRACT number
- F. Service Date
- G. Description of Services
- H. Total
- I. Taxpayer ID number

Invoices and support documentation are to be forwarded to:

TBA – Per Contract Task Order

County of Orange
Thirtieth Street Architects, Inc.

A-E has the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive Electronic Remittance Advice with the payment details via email. An email address will need to be provided to the COUNTY via an EFT Authorization Form. To request a form, please contact the DPA.

ATTACHMENT C
STAFFING PLAN**1. A-E KEY PERSONNEL**

Name	Classification/Designation	Years of Experience	Licenses/Certifications (include license number)
James C. Wilson	Principal in Charge, Design Team Manager, Project Arch.	41	C8994
John C. Loomis	Architect and Principal	41	C8684
Chip Gulley	Licensed Architect	35	C019169
Carrie Wilde	Project Manager	28	C24400
Elizabeth Sanchez	CAD	23	

A-E understands that the personnel represented as assigned to the CONTRACT must remain working on the CONTRACT throughout the duration of the CONTRACT unless otherwise requested or approved by the COUNTY. Substitution or addition of A-E's key personnel in any given category or classification shall be allowed only with prior written approval of the COUNTY's Project Manager. ***Note: The written approval of substituted A-E Key Personnel is for departmental use only and shall not be used for auditing purposes outside OC Public Works or other County department.***

A-E may reserve the right to involve other A-E personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/classification required. Assignment of additional key personnel shall be subject to COUNTY Project Manager written approval. ***Note: The written approval of additional A-E Key Personnel is for departmental use only and shall not be used for auditing purposes outside OC Public Works or other County Department.*** COUNTY reserves the right to have any A-E personnel removed from providing services to COUNTY under this CONTRACT. COUNTY is not required to provide any reason for the request for removal of any A-E personnel.

2. SUBCONTRACTOR(S) (IF APPLICABLE)

Listed below are subcontractor(s) anticipated by A-E to perform services specified in Attachment A. Substitution or addition of A-E's subcontractors in any given project function shall be allowed only with prior written approval of the COUNTY Project Manager.

Company Name & Address	Contact Name and Telephone Number	Project Function
Structural Focus, 19210 S. Vermont Ave., Bldg. B, Ste. 210, Gardena, CA	David Cocke, 310/323-9113	Structural Engineering
Glumac, 18200 Von Karman Ave., Ste. 100. Irvine, CA 92612	Philip Brault, 949/833-8190	MEP Engineering

County of Orange
Thirtieth Street Architects, Inc.

RHA Landscape Architects, 6216 Brockton Ave., Ste. 212, Riverside, CA 92506	Doug Grove, 951/781-1930	Landscape Architect
Civil Works Engineers, 3151 Airway Ave., Ste. S-2, Costa Mesa, CA 92626	Marie Marston, 714/966-9060	Civil Engineer
Geotechnical Solutions, 27 Mauchly, Ste. 210, Irvine, CA 92618	Abraham Baha, 949/453-0406	Geotechnical Engineers
Leslie Bradley Design Consultancy, 227 21st St., Huntington Beach, CA 92648	Leslie Bradley, 657/203-3877	Interior Design
Jan Ostashay & Associates, P.O. Box 542, Long Beach, CA 90801	Jan Ostashay, 562/500-9451	Architectural Historian
Iskander & Associates, 600 N. Tustin, Ste. 130, Santa Ana, CA 92702	Iskander Abdulla, 714/544-4214	Cost Estimator