



**San Benito County
Council of San Benito County Governments (COG)**

Request for Proposals COG #2017- 01

Council of San Benito County Governments Website

October 6, 2017

Prepared By:

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**Council of San Benito County Governments
Website
Request for Proposals COG #2017- 01**

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SECTION 1. REQUEST

The Council of San Benito County Governments (COG) is seeking proposals from qualified firms to update and redesign its website (www.sanbenitocog.org) to enhance the user experience, simplify content management and provide better information to the community.

The COG website was updated in 2007 and needs a complete redesign including new content and images. COG is requesting a site that can be managed in-house. The consultant will coordinate the training of staff on the use and administration to maintain and enhance the web site once the project is finished.

~ END SECTION 1 ~

SECTION 2. INSTRUCTIONS TO RESPONDENTS

2.1 Responding to RFP

Respondents shall submit a completed proposal with appropriate attachments or explanatory materials in response to COG RFP #2017-01. All attachments shall be identified with the Respondent's name, the RFP number and page number.

2.2 RFP Documents

The following exhibit is included as a part of this RFP:

- Exhibit A– Standard Contract

2.3 RFP Process Schedule

The following is an anticipated RFP schedule. The COG may change the estimated dates and process as deemed necessary.

The proposed schedule for the submittal reviews and notification is as follows:

Activity	Date
Release RFP online at: www.sanbenitocog.org	October 6, 2017
Deadline for Written Questions	October 20, 2017
Deadline for Proposals	November 2, 2017
Select Firm, Negotiate Contract	November 2-7, 2017
Approximate Award Date	November 16, 2017
Begin Work	December 1, 2017
Complete Work	May 1, 2018

2.4 Submission of Response to RFP

Two (2) hard copies, including all applicable supporting documentation, must be addressed and delivered to the office and individual named below:

Kathy Postigo, Administrative Services Specialist
Council of San Benito County Governments
330 Tres Pinos Road, Suite C7
Hollister, California 95023

All proposals must be received by no later than **10:00 A.M., PDT, on November 2, 2017**. Proposals received after the above date and time will be rejected and will be returned unopened. Facsimile transmission of proposals will not be accepted.

Proposals must be signed by the firm or by a duly authorized officer of the firm, delivered along with all required documents, sealed and plainly addressed to the agency representative specified in this RFP.

All costs of the preparation of a proposal shall be the responsibility of the proposer.

All materials submitted in response to the Request for Proposal become the property of COG and shall not be returned.

A responsive proposal shall be limited in length to no more than 15 double-sided pages, and 12 point size font. Page limit is not inclusive of cost proposal, certification forms, or any additional appendices. Submissions beyond the page limit will not be considered.

A responsive proposal shall include, at a minimum, the following items:

- A cover letter
- A brief description of the firm, including the year the firm was established, type of firm (partnership, corporation, etc.), and a statement of the firm's qualifications for performing the subject services.
- A brief summary of the proposed team's experience with designing websites.
- An organizational chart depicting the individual or team proposed by the firm and a summary of the qualifications and experience of each member proposed as the project team.
- A concise, but detailed description on the firm's approach to meet the requirements set forth in Section 3, Scope of Work.
- A list of Subcontractors to be used, if any, and their relevant expertise.
- A list of references for relevant clients, including a contact person.
- A cost proposal that includes all charges, including one-time build and migration and one-time recommended on-site training.
- Other relevant information that will assist the COG in selecting the most qualified firm(s).
- Sample images of comparable websites developed by the firm

2.5 Point of Contact

All questions regarding this RFP shall be directed to Kathy Postigo, Administrative Services Specialist, by email at kpostigo@sanbenitocog.org or by facsimile at 831.636.4160 with the subject: "RFP COG #2017-01 " followed by a brief description. No other individual has the authority to respond to any questions submitted unless specifically authorized by Kathy Postigo, Transportation Planner. Failure to adhere to this process may disqualify the Respondent.

2.6 Interpretation

Should any discrepancies or omissions be found in the RFP specifications/requirements, or doubt as to their meaning, the firm shall notify the COG in writing at once (e-mail is acceptable). The COG will post addenda with further instruction or clarification on www.SanBenitoCOG.org for all interested firms to view. COG shall not be held responsible for oral interpretations.

2.7 Questions

Questions must be received by October 20, 2017 at 5:00 p.m., PDT. All addenda issued shall be incorporated into the contract. It is the firm's responsibility to check the website to obtain the most current information regarding this RFP.

2.8 Updates and Addenda

No one is authorized to amend any of these documents in any respect by an oral statement or to make any representation or interpretation in conflict with their provisions. Any changes to these documents will be issued in writing via Addendum by Kathy Postigo or designee.

Respondents shall be responsible for monitoring the COG's website at www.SanBenitoCOG.org for the most current information regarding this RFP. Current information may in the form of an update or a formal addendum. The last day for updates and addenda shall be posted on the above mentioned website on October 27, 2017, at 5:00 p.m., PDT. It is the firm's responsibility to check the website to get the most current information regarding this RFP.

2.9 Late Responses

All responses to the RFP must be delivered in person or received by mail no later than **10:00 A.M., PDT, on November 2, 2017**. Respondents shall be responsible for the timely delivery of their proposals. Responses to this RFP will not be accepted after the deadline and will be returned unopened.

2.10 Multiple Submittals

Only one proposal will be accepted from any one firm; however, several alternatives may be included in one proposal.

2.11 RFP Evaluation Criteria

An evaluation committee consisting of COG staff will review each proposal for completeness and content. Each proposal will be evaluated based upon the relevant experience of the Firm. The evaluation committee will review and rank the proposals and may conduct interviews, if necessary. The rankings will be based upon the following criteria:

- **Organization:** Does the firm offer the breadth and quality of services required for the anticipated project? Does the firm's organizational structure show sufficient depth for its present workload?
- **Staff:** Do the qualifications of key personnel to be assigned to the anticipated projects coincide with project requirements? Do assigned personnel have requisite education, experience, and professional qualifications?
- **Experience:** Has the firm demonstrated the ability to successfully provide services for projects of a similar complexity and nature as described herein?
- **Technical Approach:** How does the firm intend to achieve the budget and project delivery goals for the anticipated projects? How will the firm perform the Scope of Work specified in Section 3 of this RFP?
- **Reputation:** Are the firm's references from past clients and associates favorable? Does the firm show financial and operational stability?
- **Cost:** Is the proposed budget cost effective?

2.12 Selection Procedure

The COG shall perform an initial review of all proposals to determine responsiveness as specified in Paragraph 2.4 in this RFP.

The Evaluation Committee comprised of COG staff will review all responsive proposals and will rank proposals in descending order of preference. The Evaluation Committee will then select the preferred proposal. All proposers may be notified of the proposal which is ranked highest. No other information will be released.

The COG and the highest ranked proposer shall negotiate terms of a contract consistent with the RFP and the proposal. The successful proposer will be expected to enter into the agreement appended as Exhibit A to this RFP.

If agreement is not reached within a reasonable time after the highest ranked proposal is selected, COG reserves its right to terminate negotiations with the highest ranked proposer, negotiate with the next highest ranked proposer, suspend the process entirely or request new proposals.

COG reserves the right to reject any and all proposals received pursuant to the RFP. The COG is under no obligation to award any contract.

There shall be no appeal of any decision of the COG, or any COG representative.

Award of a contract shall not be based on cost alone, but on the strength of qualifications of the proposer and the proposers' capability of providing the services outlined in the RFP.

2.13 Reservations

The COG reserves the right to do the following at any time and for its own convenience, at its sole discretion:

- To reject any and all proposals, without indicating any reason for such rejection
- Waive or correct any minor or inadvertent defect, irregularity or technical error in the RFP or any RFP procedure, responses to the RFP, or any subsequent negotiation process
- Terminate this RFP and issue a new RFP anytime thereafter
- Procure any materials or services specified in the RFP by other means
- Extend any or all deadlines specified in the RFP, including deadlines for accepting RFPs, by issuance of an Addendum at any time prior to the deadline for receipt of responses to the RFP
- Disqualify any Respondent on the basis of any real or perceived conflict of interest or evidence of collusion that is disclosed by the RFP or other data available to the COG. Such disqualification is at the sole discretion of the COG
- Reject the proposal of any Respondent that is in breach of or in default under any other agreement with the COG
- Reject any Respondent deemed by the COG to be non-responsive, unreliable, or unqualified

2.14 Notification of Withdrawals of Proposals

The proposer may withdraw a proposal by submitting a written request for its withdrawal to a COG representative at any time prior to the proposal submission deadline. The withdrawal shall be signed by the proposer or an authorized agent of the proposer.

The proposer may thereafter submit a new proposal prior to the deadline. Modifications of a proposal offered in any manner, oral or written, will not be considered after the deadline.

2.15 Notice of Intent to Award

Notice of Intent to Award may be issued upon receipt of all required documents.

2.16 Contractor Responsibility and Performance

The COG will consider the Contractor to be the sole point of contact with regard to all contractual matters.

Contractor shall provide the services of one (1) or more qualified contract manager(s) responsible for assuring that the services provided under the contract are satisfactory. It is desirable that the Contractor have local representation to provide on-site consultation/problem resolution if required.

2.17 Insurance

The Contractor, at its sole cost and expense, for the full term of this contract (and extensions thereof), shall obtain and maintain at minimum all of the following insurance coverage. Such insurance coverage shall be primary coverage as respects the COG and any insurance or self-insurance maintained by the COG shall be in excess of the Contractor's insurance coverage and shall not contribute to it.

1. Types of Insurance and Minimum Limits

- a) Worker's Compensation and Employer's Liability Insurance in conformance with the laws of the State of California.
- b) The Contractor's vehicles used in the performance of this contract, including owned, non-owned (e.g. owned by the Contractor's employees), leased or hired vehicles, shall each be covered with Automobile Liability Insurance in the minimum amount of \$500,000 combined single limit per accident for bodily injury and property damage.
- c) The Contractor shall obtain and maintain Comprehensive General Liability Insurance coverage in the minimum amount of \$1,000,000.00 combined single limit, including bodily injury, personal injury, and property damage. Such insurance coverage shall include, without limitation:
 - (i) Contractual liability coverage adequate to meet the Contractor's indemnification obligations under this Request;
 - (ii) Full Personal Injury coverage;
 - (iii) Broad form Property Damage coverage, and
 - (iv) A cross-liability clause in favor of the COG.

2. Other Insurance Provisions

- a. As to all insurance coverage required herein, any deductible or self-insured retention exceeding \$5,000 shall be disclosed to and be subject to written approval by the COG.
- b. All required Automobile Liability Insurance, Comprehensive or Commercial General Liability Insurance or Professional Liability Insurance shall contain the following endorsement as a part of each policy:

"The Council of San Benito County Governments is hereby added as an additional insured as respects the operations of the named insured."

- c. All the insurance required herein shall contain the following clause:

"It is agreed that these policies shall not be canceled nor the coverage reduced until thirty (30) days after the Council of San Benito County Governments ("COG") shall have received written notice of such cancellation or reduction. The notice shall be deemed effective the date delivered to the COG as evidenced by properly validated return receipt. Such notice shall be sent to: Council of San Benito County Governments, 330 Tres Pinos Road Suite C7, Hollister, CA 95023".

- d. The prospective Contractor agrees to provide the COG at or before the effective date of any award resulting from this RFP with a certificate of insurance of the coverage required.
- e. All required insurance policies shall be endorsed to contain the following clause: This Insurance shall not be cancelled until after thirty (30) days prior written notice has been given to:

Council of San Benito County Governments
Mary Gilbert, Executive Director
330 Tres Pinos Road, Suite C7
Hollister, CA 95023

The Contractor agrees to provide its insurance broker(s) with a full copy of these insurance requirements and provide the COG on or before the effective date of this contract Certificates of Insurance for all required coverage. By submitting a proposal, firm agrees to provide insurance specified in Paragraph 2.17 of this RFP.

2.18 Pre-Award Conference

If requested, successful Respondent(s) shall meet with the COG representatives prior to the Award of Contract to review the specifications and finalize the initiation of the proposed contract.

2.19 Execution of Agreement

Upon successful reference checks, evaluations and receipt of all required documents, the agreement must be executed by both parties.

~ END SECTION 2 ~

SECTION 3. SCOPE OF WORK

3.1 General Description

The specifications described below set forth the minimum requirements for the quantity and quality of work to be provided hereunder. The services to be provided shall meet or exceed the specifications attached hereto. As used herein, the term "work" refers to the articles, equipment, materials, supplies and labor as specified, designated or otherwise required by the RFP. Additional terms, conditions and requirements pertaining to the methods and manner of performing the work are described elsewhere in the RFP.

The scope of work is described below. The selected consultant or consulting team will be expected to perform all technical and other analyses necessary to complete the scope of work. The successful proposer shall develop a website with the following elements:

- Develop a website design that promotes usability, utility, and simplicity
- Produce website content - The successful proposer shall produce the website written content, which should be concise.
- The website shall have the ability to interface with social media such as Twitter and Facebook.
- Provide Spanish translation for the entire website.
- Web application must include security features to protect users' privacy.
- Coordinate the training of staff on the use and administration to maintain and enhance the web site once the project is finished.

Deliverables:

- Three website concept designs shall be provided to COG, one will be selected as the preferred option.
- Training of staff on the use and administration to maintain and enhance the web site.

~ END SECTION 3 ~

SECTION 4. EXHIBITS

**EXHIBIT A
STANDARD CONTRACT**

The following is a copy of the Standard Contract used by the COG for contracting with consultants or individuals for professional services. This document shall serve as the basis for a contract with the successful consultants (s) or individual(s). *Firms should not respond to this RFP if they cannot agree to the standard contract terms and conditions.*

The SAN BENITO COUNTY LOCAL TRANSPORTATION AUTHORITY ("COG") and _____ ("CONTRACTOR") enter into this contract which shall be effective on the date stated in Paragraph 1.

1. Duration of Contract.

This contract shall commence on _____, and end on _____ unless sooner terminated as specified herein.

2. Scope of Services.

CONTRACTOR, for COG's benefit shall perform the services specified on Attachment A to this contract. Attachment A is made a part of this contract.

3. Compensation for Services.

In consideration for CONTRACTOR'S performance, COG shall pay compensation to CONTRACTOR according to the terms specified in Attachment B. Attachment B is made a part of this contract.

4. General Terms and Conditions.

The rights and duties of the parties to this contract are governed by the general terms and conditions mutually agreed to and listed in Attachment C. Attachment C is made a part of this contract.

5. Insurance Limits.

CONTRACTOR shall maintain the following insurance policy limits of coverage consistent with the further insurance requirements specified in Attachment C.

- (a) Comprehensive general liability insurance: \$1,000,000
- (b) Professional liability insurance: \$1,000,000
- (c) Comprehensive motor vehicle liability insurance: \$1,000,000

6. Termination.

The number of days of advance written notice required for termination of this contract is thirty (30) days.

7. Specific Terms and Conditions. (check one)

- There are no additional provisions to this contract.
- The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment D. Attachment D is made a part of this contract.

8. Information about Contract Administrators.

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for COG:

Name: Mary Gilbert

Title: Executive Director

Address: 330 Tres Pinos Road, Ste. C7

Hollister, California 95023

Phone No.: (831) 637-7665

Fax No.: (831) 636-4160

**Contract Administrator for
CONTRACTOR:**

Name:

Title:

Address:

SIGNATURES

**APPROVED BY
CONTRACTOR:**

Ignacio Velazquez

Chair

Date:

Name:

Title:

Date:

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

By:

Shirley L. Murphy, Deputy County Counsel

Date:

ATTACHMENT A
Scope of Services

This section has been intentionally left blank as the scope of services will be provided following selection of a qualified firm.

~ END ATTACHMENT A ~

**ATTACHMENT B
Payment Schedule**

B-1. BILLING

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (check one)

- One month in arrears.
- Upon the complete performance of the services specified in Attachment A.
- The basis specified in paragraph B-4.

B-2. PAYMENT

Payment shall be made by COG to CONTRACTOR at the address specified in paragraph 7 of this contract, net thirty (30) days from the invoice date.

B-3. COMPENSATION

COG shall pay to CONTRACTOR: (check one)

- a total lump sum payment of \$ _____, or
- a total sum not to exceed \$ _____.

for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this attachment, Attachment B.

B-4. SPECIAL COMPENSATION TERMS: (check one)

- There are no additional terms of compensation.
- The following specific terms of compensation shall apply: (Specify)

CONTRACTOR shall invoice monthly at an hourly rate for services rendered pursuant to B-4 and of this Contract. CONTRACTOR shall provide a monthly progress report as a part of the monthly invoice which tracks tasks specified in Attachment A, Scope of Services, with services completed by CONTRACTOR. The monthly progress report shall include the following:

- Description of the tasks in progress or achieved
- Description of the tasks still to be achieved
- Percentage of work still anticipated for each task for the completion of the project

The COG shall have the right to retain 10% of the total contracted amount until the project is deemed completed by the CONTRACTOR and the COG.

~ END ATTACHMENT B ~

ATTACHMENT C
General Terms and Conditions

C-1. INDEMNIFICATION.

CONTRACTOR and COG each agree to indemnify, defend and save harmless the other party and the other party's officers and employees, from and against any and all claims and losses whatsoever arising out of, or in any way related to, the indemnifying party's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys' fees, court costs, investigation costs, and experts' fees) incurred by the indemnitee in connection with such claims or losses. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers and employees.

C-2. GENERAL INSURANCE REQUIREMENTS.

Without limiting CONTRACTOR'S duty to indemnify COG, CONTRACTOR shall comply with the insurance coverage requirements set forth in the contract and in this attachment. Those insurance policies mandated by Paragraph C-3 shall satisfy the following requirements:

- (a) Each policy shall be issued by a company authorized by law to transact business in the State of California.
- (b) Each policy shall provide that COG shall be given notice in writing at least thirty (30) days in advance of any change, cancellation, or nonrenewal thereof.
- (c) The comprehensive motor vehicle and comprehensive general liability policies shall each provide an endorsement naming the County of San Benito and its officers, agents and employees as additional insureds.
- (d) The required coverage shall be maintained in effect throughout the term of this contract.

CONTRACTOR shall require all Subcontractors performing work under this contract to obtain substantially the identical insurance coverage required of CONTRACTOR pursuant to this agreement.

C-3. INSURANCE COVERAGE REQUIREMENTS.

If required by paragraph 5 of the contract, CONTRACTOR shall maintain the following insurance policies in full force and effect during the term of this contract:

- (a) Comprehensive general liability insurance. CONTRACTOR shall maintain comprehensive general liability insurance, covering all of CONTRACTOR'S operations with a combined single limit of not less than the amount set out in paragraph 5 of this contract.
- (b) Professional liability insurance. CONTRACTOR shall maintain professional liability insurance with liability limits of not less than the amount set out in paragraph 5 of this contract.
- (c) Comprehensive motor vehicle liability insurance. CONTRACTOR shall maintain comprehensive motor vehicle insurance covering all motor vehicles (including owned, non-owned and hired) used in providing services under this contract, with a combined single limit of not less than the amount set out in Paragraph 5 of this contract.
- d) Workers' compensation insurance. CONTRACTOR shall maintain a workers' compensation plan covering all of its employees as required by California Labor

Code Section 3700, either through workers' compensation insurance issued by an insurance company or through a plan of self-insurance certified by the State Director of Industrial Relations. If CONTRACTOR elects to be self-insured, the certificate of insurance otherwise required by this contract shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations.

C-4. CERTIFICATE OF INSURANCE.

Prior to the commencement of performance of services by CONTRACTOR and prior to any obligations of COG, CONTRACTOR shall file certificates of insurance with COG, showing that CONTRACTOR has in effect the insurance required by this contract. CONTRACTOR shall file a new or amended certificate promptly after any change is made in any insurance policy which would alter the information on the certificate then on file. In lieu of providing proof of insurance, CONTRACTOR may provide proof of self-insurance meeting requirements equivalent to those imposed herein. CONTRACTOR warrants that CONTRACTOR'S self-insurance provides substantially the same protection to COG as the insurance required herein. CONTRACTOR further agrees to notify COG in the event any change in self-insurance occurs that would alter the obligations undertaken in this contract within thirty (30) days of such change.

C-5. RECORDS TO BE MAINTAINED.

CONTRACTOR shall keep and maintain accurate records of all costs incurred and all time expended for work under this contract. CONTRACTOR shall contractually require that all of CONTRACTOR'S Subcontractors performing work called for under this contract also keep and maintain such records. All such records, whether kept by CONTRACTOR or any SUBCONTRACTOR, shall be made available to COG or its authorized representative, Federal Highway Administration (FHWA), or any duly authorized representative of the Federal Government or officials of the State of California for review or audit during normal business hours, upon reasonable advance notice given by COG, its authorized representative, or officials of the State of California.

C-6. RETENTION OF RECORDS.

CONTRACTOR shall maintain and preserve all records related to this contract for a period of three years from the close of the fiscal year in which final payment under this contract is made. CONTRACTOR shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the three-year period, if any audit involving such records is then pending, until the audit findings are resolved. The obligation to insure the maintenance of the records beyond the initial three year period shall arise only if the COG notifies CONTRACTOR of the commencement of an audit prior to the expiration of the three year period.

C-7. TITLE TO DOCUMENTS; COPYRIGHT.

All reports and other materials collected or produced by the CONTRACTOR or any Subcontractor of CONTRACTOR shall, after completion and acceptance of the contract, become the property of COG, and shall not be subject to any copyright claimed by the CONTRACTOR, SUBCONTRACTOR, or their agents or employees. CONTRACTOR may retain copies of all such materials exclusively for administrative purposes. Any use of completed or uncompleted documents for other projects by CONTRACTOR, any Subcontractor, or any of their agents or employees, without the prior written consent of COG is prohibited.

C-8. INDEPENDENT CONTRACTOR.

CONTRACTOR and its officers and employees, in the performance of this contract, are independent CONTRACTORS in relation to COG and not officers or employees of COG. Nothing in this contract

shall create any of the rights, powers, privileges or immunities of any officer or employee of COG. CONTRACTOR shall be solely liable for all applicable taxes or benefits, including, but not limited to, federal and state income taxes, Social Security taxes, or ERISA retirement benefits, which taxes or benefits arise out of the performance of this contract. CONTRACTOR further represents to COG that CONTRACTOR has no expectation of receiving any benefits incidental to employment.

C-9. CONFLICT OF INTEREST.

CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. CONTRACTOR further covenants that, in the performance of this contract, no Subcontractor or person having such an interest shall be used or employed.

C-10. COMPLIANCE WITH APPLICABLE LAWS.

CONTRACTOR shall comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the work and providing the services specified in this contract. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this contract.

C-11. NONDISCRIMINATION.

CONTRACTOR shall not discriminate in the employment of persons necessary to perform this contract on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.

C-12. BANKRUPTCY.

CONTRACTOR shall immediately notify COG in the event that CONTRACTOR ceases conducting business in the normal manner, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors.

C-13. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION OF DUTIES.

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated by CONTRACTOR without the prior written consent of COG, and any attempted assignment or delegation without such consent shall be void.

C-14. NEGOTIATED CONTRACT.

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code Section 1654.

C-15. SEVERABILITY.

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect. To this end, the provisions of this contract are declared to be severable.

C-16. ENTIRE CONTRACT.

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference.

C-17. TIME IS OF THE ESSENCE.

Time is of the essence in the performance of this contract.

C-18. TERMINATION.

Either party may terminate this contract, with or without cause, at any time. In order to terminate this contract, the terminating party shall give advance written notice to the other party. The termination shall be effective no earlier than the expiration of the number of days specified in paragraph 6 of this contract. The termination notice shall be made as specified in paragraph C-19, below. In the event of termination, COG shall pay CONTRACTOR for all work satisfactorily performed prior to the effective date of the termination.

C-19. NOTICES.

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrator personally, by regular mail, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

- (a) The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or
- (b) Five days after the date the notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, with first-class postage fully prepaid; or
- (c) On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 8 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, on the same day as the facsimile transmission is made.

C-20. RESPONSIBILITY OF CONTRACT ADMINISTRATORS.

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the respective contract administrators or to the party's employee specified, in writing, by the contract administrator. A party may, in its sole discretion, change its designation of its contract administrator and shall promptly give written notice to the other party of any such change.

C-21. MATERIALITY.

The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

C-22. WAIVER.

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. COG's receipt of consideration with knowledge of CONTRACTOR'S violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

C-23. AUTHORITY AND CAPACITY.

CONTRACTOR and CONTRACTOR'S signatory each warrant and represent that each has full authority and capacity to enter into this contract.

C-24. BINDING ON SUCCESSORS.

All of the conditions, covenants and terms herein contained shall apply to, and bind, the heirs, successors, executors, administrators and assigns of CONTRACTOR. CONTRACTOR and all of CONTRACTOR'S heirs, successors, executors, administrators, and assigns shall be jointly and severally liable under this contract.

C-25. CUMULATION OF REMEDIES.

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

C-26. INDEPENDENT ADVICE.

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this contract and the rights and duties arising out of this contract, or that such party willingly foregoes any such consultation.

C-27. NO RELIANCE ON REPRESENTATIONS.

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

C-28. REDUCTION OF CONSIDERATION.

CONTRACTOR agrees that COG shall have the right to deduct from any payments specified in Attachment B any amount owed to COG by CONTRACTOR as a result of any obligation arising prior to, or after, the execution of this contract. For purposes of this paragraph, obligations arising prior to, or after, the execution of this contract may include, without limitation, any property tax, secured or unsecured, which tax is in arrears. If COG exercises the right to reduce the consideration specified in Attachment B, COG, at the time of making a reduced payment, shall give CONTRACTOR notice of the amount of any off-set and the reason for the reduction.

C-29. COUNTERPARTS.

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

~ END ATTACHMENT C ~

~ END EXHIBIT A ~

~ END SECTION 4 ~