

**AGENDA  
MEETING OF THE  
ANIMAL CARE JPA  
THURSDAY, AUGUST 26, 2010, 10:00 A.M.  
YUCCA VALLEY COMMUNITY CENTER MESQUITE ROOM**

**ROLL CALL:** Directors Cronin, Herbel, Huntington, Chair Derry

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES**

Approve the minutes of July 29, 2010 as presented

**DIRECTORS REPORTS/UPDATES**

**DISCUSSION ITEMS**

1. Town Property Report
2. Action regarding Project Site
3. Review consultant contract for architectural firm.
4. Appoint project supervisor/contacts for architect.

**FUTURE AGENDA ITEMS**

- a. Discussion regarding County Voucher Program
- b. County/Town Fee Schedule.

**PUBLIC COMMENTS**

**ADJOURNMENT**



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**ANIMAL CARE JPA MINUTES  
TUESDAY JULY 29, 2010**

Chair Derry called the meeting to order at 10:02 a.m. with Directors Herbel, Huntington, Cronin and Chair Derry present.

**PLEDGE OF ALLEGIANCE**

Led by Chair Derry

**APPROVAL OF MINUTES**

Approve the minutes of June 29, 2010 as presented

Director Herbel moved and Director Huntington seconded to approve the minutes of May 12, 2010. As there was no objection, the minutes stand approved.

**DIRECTORS REPORTS/UPDATES**

None

**DISCUSSION ITEMS**

**1. Selection of Architectural Firm to provide consultation services.**

Director Cronin stated that he received the rating sheets from the Board Members and noted that the firm that was rated the highest was Williams Architects. He recommended that the JPA accept the sealed bid costs presented with the proposal and that he and the County Architectural and Engineering Department (A&E) be directed to finalize a contract. It was noted that he reviewed the very detailed fee proposal with A&E and discussed concerns regarding CEQA costs with the Architect who indicated costs for CEQA were all inclusive. If the Board elects to accept the proposal, a contract will be developed and brought back to the next meeting for consideration.

Director Huntington questioned if the fee proposal is in line with the budgeted amount. Director Cronin advised that it is.

Ramon Mendoza, Yucca Valley, asked questions about the facility and location.

Larry Burge, Yucca Valley, commented regarding the location.

Upon motion by Director Huntington, second by Director Herbel and no objection stated, Director Cronin was instructed to negotiate the contract incorporate the fee proposal and present it at the next meeting for approval.

**FUTURE AGENDA ITEMS**

- a. Discussion regarding County Voucher Program
- b. County/Town Fee Schedule.
- c. Town property report
- d. Action regarding project site
- e. Approve consultant contract for architectural firm
- f. Appoint project supervisor // contacts for architect.

**PUBLIC COMMENTS**

Larry Burge, Yucca Valley, questioned the likely location and its size.

Margo Sturges, Yucca Valley, commented regarding the Planning Commission discussion about the proposed site.

**ADJOURNMENT**

There being no further business, Director Derry advised the next meeting will be Thursday, August 26, 2010 at 10:00 a.m. and adjourned the meeting at 10:22 a.m.

Respectfully submitted

Jamie Anderson  
Town Clerk

**ANIMAL CARE JOINT POWERS AUTHORITY  
ANIMAL SHELTER ARCHITECT'S CONTRACT**

THIS CONTRACT ("Contract") is entered into in the State of California by and between the Animal Care Joint Powers Authority, hereinafter called the JPA, and

Name	hereinafter	
<u>Williams Architects, Inc.</u>	called	<u>Architect</u>
Address		
<u>276 N. Second Avenue</u>		
<u>Upland, CA 91786</u>		
Telephone	Federal ID No. or Social	
<u>909.981.5188</u>	Security No. <u>          </u>	

**IT IS HEREBY AGREED AS FOLLOWS:**

**ARTICLE 1. THE PROJECT**

**1.1 Architect's Scope of Work**

JPA does hereby engage Architect to perform for the JPA under the terms and conditions in this Contract all services relative to the development, design and construction administration of the proposed new Animal Shelter to be located in the Town of Yucca Valley ("Town") per the JPA's Request for Proposal and Scope of Work dated February 11, 2010 (the "Project"). The Scope of Work shall be incorporated into this Contract in its entirety. (See Attachment A, Scope of Work.) Architect shall not perform any services not specifically provided for in the body of this Contract or in Attachment A, Scope of Work, without prior approval of JPA as set forth in Article 6, Extra Services of Architect. The JPA and Architect both understand that environmental review under the California Environmental Quality Act ("CEQA") for the Project has not been completed and the Project may not be ultimately approved by the JPA, in which case the Architect will be only paid for work completed or in progress that was authorized by the JPA.

**1.2 Budget**

The Construction Budget as determined by JPA is Two Million Eight Hundred Thousand Dollars (\$2,800,000). The JPA, in its sole discretion, reserves the right to change the Construction Budget.

**1.3 Schedule of Services**

- a. It is understood and agreed that time is of the essence for this Contract. Within fourteen (14) calendar days after the execution of this Contract, Architect shall prepare and submit for approval to JPA a detailed schedule showing the order in which Architect proposes to carry on its work. The schedule shall apply to the completion of all services listed hereunder within the time established by the Contract. The schedule shall be in the form of a progress chart so as to indicate the percentage of work completed at any time. Architect shall, as requested, update the progress schedule and deliver three copies to JPA.

- b. Architect shall complete all work and services under Article 3.2, Pre-Design Services, within \_\_\_\_\_ (\_\_\_\_\_) calendar days after receipt of written authorization by JPA to proceed with Pre-Design Services. Since CEQA review is still pending, the time necessary for the Architect to provide all necessary reports, studies, documents and other information required by the JPA to use in the processing of the Project's environmental review will extend the above time to complete the required CEQA review services, but the other services in Article 3.2, Pre-Design Services, shall be completed within the above stated time.
- c. Architect shall complete all work and services required under Article 3.3, Schematic Design Services, within \_\_\_\_\_ (\_\_\_\_\_) calendar days after receipt of written authorization by JPA to proceed with Schematic Design Services.
- d. Architect shall complete all work and services required under Article 3.4, Design Development Services, within \_\_\_\_\_ (\_\_\_\_\_) calendar days after receipt of written authorization by JPA to proceed with Design Development Services.
- e. Architect shall complete all work and services required under Article 3.5, Construction Document Services, within \_\_\_\_\_ (\_\_\_\_\_) calendar days after receipt of written authorization by JPA to proceed with Construction Document Services.
- f. The time frames above include the normal and reasonable times for JPA reviews.
- g. The time during which Architect is delayed in the work by acts of the JPA or its employees, or those under contract to JPA, or by act of God, or other cause which Architect could not have foreseen and provided for, and which is not due to any fault or negligence on the part of Architect, shall be added to the time of completion of the work and Architect shall not be liable for any damages as a result of such delay.

1.4 Architect's Fee

- a. JPA agrees to pay Architect a total fixed fee of Two Hundred Fifty-one Thousand Five Hundred Sixty-one Dollars (\$251,561.00) for all services described in this Contract, including but not limited to the services set forth in Article 3, Basic Services of Architect, but not including properly authorized Extra Services described in Article 6, Extra Services. The compensation payment schedule is specified in Article 4, Compensation.
- b. If the scope of the Project is revised, the fee for Basic Services and the schedule shall be revised by negotiation between the JPA and Architect and approved by the Board.
- c. Except as provided in Paragraph 11.4 of Article 11, Termination or Suspension of Contract, if the JPA fails to authorize Architect to proceed with any portion of this Contract for a period of six months beyond the normal time to proceed with any portion JPA and Architect shall renegotiate Architect's fees under this Contract. If no Agreement can be reached, this Contract shall be terminated under the provisions of Article 11, Termination or Suspension of Contract.

ARTICLE 2. DEFINITIONS

For all purposes of this Contract, the following definitions shall apply:

- 2.1 Appropriate Authorities - Any private, local, municipal, county, state, regional, or federal authority, public utility or other agency.

- 2.2 Approved Final Construction Cost Estimate - The estimate of construction cost approved by the JPA at the time the completed drawings, details and specifications are approved by the JPA.
- 2.3 Architect – Williams Architects, Inc., the Architect hired by JPA, based on competence and related experience, to perform the work described herein.
- 2.4 Board – Animal Care Joint Powers Authority Board of Directors.
- 2.5 Construction Budget - Funding in place, for the complete construction of the Project, as established by the JPA.
- 2.6 Construction Site Representative (Inspector) - The individual or firm responsible to the Project Manager for the inspection of the construction work, on a part time basis.
- 2.7 Contract Documents - Standard Construction Contract and all Project documents designated in the construction contract as part of the construction contract, including working drawings, addenda, specifications, general conditions, and special conditions of the construction contract.
- 2.8 Construction Documents - All services relative to drawings, specifications, estimates, and other data more fully described in Article 3.5, Construction Document Services, hereof.
- 2.9 Design Development Documents - All services relative to drawings, specifications, estimates, and other data more fully described in Article 3.4, Design Development Services, hereof.
- 2.10 Itemized Categories of Work - Those applicable and specific categories of work necessary for completion of construction of the Project including, but not limited to: demolition, site preparation, earthwork and grading, general construction items, sewer, gas, water, plumbing, storm drains, electrical, on-site improvements, off-site improvements, landscaping and irrigation.
- 2.11 JPA - The Animal Care Joint Powers Authority, and its representatives, as herein stated.
- 2.14 Project Architect - Person, designated by Architect and approved by JPA, responsible for Architect's work.
- 2.15 Project Construction Cost Estimate - The Architect's dated, itemized estimate, including the Itemized Categories of Work, of the entire Project's current cost, escalated to the proposed mid point of construction.
- 2.16 Project Manager - The individual or firm, designated by the JPA, responsible for the administration of the Contract.
- 2.17 Schematic Documents - All services relative to drawings, specifications, estimates, and other data more fully described in Article 3.3, Schematic Design Services, hereof.

ARTICLE 3. BASIC SERVICES OF ARCHITECT

3.1 General Services

The services to be rendered by the Architect shall consist of all such services as customarily performed by an architect for the design of the Project, specifically including, but not limited to, the following:

- a. Clearly indicate on the plans and in the specifications, the specific contractor license classification required to perform the work in compliance with the State Contractor's License Board.
- b. Process all matters relating to this Project through a single point of contact, the Project Manager.

- c. Consult with authorized employees, agents, and representatives of the JPA and other agencies having jurisdiction relative to the design and construction of the Project.
- d. Cooperate with other consultants.
- e. Provide recommendations to the Project Manager regarding proposed locations of soil borings and/or excavation pits/trenches for the purposes of the Project site's geotechnical investigation and soils testing.
- f. Make field trips as required to review existing site conditions, and to properly prepare design and construction documents.
- g. Attend design meetings as scheduled by the Project Manager, prepare minutes of meetings, and distribute within three (3) working days.
- h. Contract for sub-consultants, at Architect's expense, to the extent necessary for design of the Project, including but not limited to, mechanical, electrical, structural and civil engineers, and landscape architects, all licensed or registered as such by the State of California. All plans and specifications shall be prepared by an architect currently licensed by the State of California, and shall be signed and sealed by the architect.
- i. Submit consultant's names for approval by JPA, for each professional element of service of the Project. Nothing in the foregoing procedure shall create any relation between JPA and any consultant employed by the Architect under terms of this Contract.
- j. Designate a principal or member of his staff satisfactory to JPA as the Project Architect who shall, as long as his performance continues to be acceptable to JPA, remain in charge of the Architect's services on the Project from beginning of preliminary design through completion of construction.
- k. Obtain and set forth requirements of Appropriate Authorities, utility companies and other governmental agencies whose jurisdiction affects the design, cost, or construction of the Project.
- l. Prepare plans and specifications in such form as to comply with the latest applicable laws, building codes and ordinances, including but not limited to the: Americans with Disabilities Act (ADA); Standard Specifications for Public Works Construction, (latest edition); Public Contract Code; Division 4 of Title I of the Government Code; CAL-OSHA and the Uniform Building Code (latest edition). All applicable energy requirements shall be met and energy calculations performed.
- m. Advise JPA of deficiencies in construction of the Project which have developed following the acceptance of the work and prior to expiration of the guarantee period of the Project, and suggest satisfactory methods for corrections for such deficiencies.

### 3.2 Pre-Design Services

Upon written authorization by the Project Manager to proceed with Pre-Design Services, Architect shall:

- a. Finalize Project requirements as described fully in Article 1.1, Architect's Scope of Work. Pre-design services shall include, but not be limited to, the following for JPA acceptance:
  - 1. Prepare a program addressing all civil, landscape, architectural, structural, mechanical, and electrical Project requirements.

2. Prepare and furnish to the Project Manager all necessary reports, studies, documents and other information required by the JPA to use in the processing of the Project's environmental review in compliance with CEQA.
  3. Future needs assessment.
  4. Written conceptual cost estimate.
- b. Prepare and submit for JPA acceptance, five copies of Project program addressing all Project requirements including future needs assessment.

### 3.3 Schematic Design Services

Upon written authorization by the Project Manager to proceed with Schematic Design Services, Architect shall:

- a. In consultation with Project Manager, prepare Schematic Documents, consisting of, but not limited to, the following for JPA acceptance: (1) site, architectural, structural, mechanical and electrical floor plans, elevations, cross sections and other required drawings; and (2) outline specifications describing the size, character, and quality of the entire Project in its essentials as to kinds and locations of materials, type of structural, mechanical, and electrical systems.
- b. Schematic Documents shall be revised by Architect until an acceptable design concept has been accepted by the Project Manager. Submit five sets of final Schematic Documents to Project Manager for final review and acceptance.
- c. Prepare and submit for JPA acceptance, a written itemized Project Construction Cost Estimate.

### 3.4 Design Development Services

Upon authorization by the Project Manager to proceed with the Design Development Services, the Architect shall:

- a. Based on the accepted Schematic Documents, prepare plot plans, landscape, irrigation, civil, architectural, structural, mechanical and electrical floor, elevations, cross-sections and other required drawings; and outline specifications describing the size, character, and quality of the entire Project in its essentials as to kinds and locations of materials, and type of structural, mechanical, and electrical system.
- b. Prepare and submit for acceptance a written, Itemized Project Construction Cost Estimate listing material, labor total costs based on the Design Development Documents.
- c. The information in the Design Development Documents shall be sufficiently complete to cover all matters which will materially affect the cost of the Project.
- d. Revise Design Development Documents to the satisfaction of the Project Manager. Submit five sets of final Design Development Documents to Project Manager for final review and acceptance.

### 3.5 Construction Document Services

After acceptance of Design Development Documents and Project Construction Cost Estimate and upon receipt of written authorization from the Project Manager to proceed with the preparation of Construction Documents, Architect shall:

- a. Prepare from accepted Design Development Documents, Construction Documents consisting of working drawings and specifications and such standard documents and special requirements as may be furnished by JPA that set forth in detail the requirements for construction of the entire Project.
- b. Submit for JPA review and acceptance, five sets of Construction Documents, consisting of working drawings and specifications at the Fifty (50) percent point of completion.
- c. Submit for JPA review and acceptance, five sets of Construction Documents, consisting of working drawings and specifications at the Ninety-five (95) percent point of completion.
- d. Submit for final JPA review and acceptance, after obtaining all regulatory agencies' approval, i.e. building & safety, public health, planning or other required approvals, five sets of Construction Documents consisting of working drawings and specifications at the One Hundred (100) percent point of completion.
- e. Prepare Construction Documents in full compliance with all applicable building codes, ordinances and other regulatory requirements in force at the time of Contract award.
- f. Prepare Construction Documents in such detail as may be required to obtain competitive bidding for the entire Project or any division of work. Furnish the JPA at no additional expense one (1) complete set of the bid drawings and specifications. The bid drawings shall be on reproducible transparent vellum with the architect's/engineer's professional stamp and signature and a recorded copy on a compact disc – recordable (CD-R). File format shall be compatible with MS-DOS and AutoCAD 14 software or newer (dwg. file format). File format to include PDF converted copies of the CAD files onto the CD(s). The specifications shall be submitted as a reproducible hard copy and a recorded copy on CD-R compatible with MS-DOS and Microsoft Word.
- g. Prepare and submit for JPA approval a list of movable furniture, panel systems, accessories and other articles not included in the construction contract.
- h. Prepare and submit for JPA approval a written final Project Construction Cost Estimate upon 100 percent completion of Construction Documents. The Project Construction Cost Estimate shall be itemized including estimates for alternate bid items, in conformance with the form of proposal intended for bidding purposes. In the event that bids are not solicited within 100 calendar days after the date Architect submits 100 percent complete Construction Documents and final Project Construction Cost Estimate to the Project Manager, the Architect shall upon written direction by the Project Manager revise his final Project Construction Cost Estimate so as to reflect any changes in price due to increase or decrease in construction costs.
- i. Upon written approval by Project Manager of a final approved set of drawings, and final draft, of specifications including all corrections required by building and safety, public health and other regulatory agencies, provide to the Project Manager completed tracings and a complete set of typed specifications on reproducible masters. Reproduction of these documents will be by JPA.

### 3.6 Bidding Services

Upon solicitation of bids by JPA, Architect shall:

- a. Attend the Pre-Bid Meeting as scheduled by the JPA.

- b. Prepare addenda and clarification documents, interpret Construction Documents and assist JPA as required. The addenda drawings shall be on reproducible transparent vellum with the architect's/engineer's professional stamp and signature and a recorded copy on a CD-R. File format shall be compatible with MS-DOS and AutoCAD 14 software or newer (dwg. file format). File format to include PDF converted copies of the CAD files onto the CD(s). The clarification documents shall be submitted as a reproducible hard copy and a recorded copy on CD-R compatible with MS-DOS and Microsoft Word.
- c. If requested, assist JPA with review, evaluation, and recommendations for awarding construction contracts.
- d. If the approved final Project Construction Cost Estimate for the Construction Document phase exceeds the Construction Budget by more than ten (10) percent, the JPA may, at its discretion (1) give written approval of an increase in the Construction Budget, or (2) authorize the soliciting of bids, reserving their rights under paragraph 3.6e below, or (3) require Architect to revise Construction Documents to reduce construction cost to within the Construction Budget.
- e. If the lowest responsible bid received exceeds the Construction Budget by more than 10 percent, the JPA may, at its discretion, (1) give written approval of an increase in the Construction Budget, or (2) authorize rebidding of the Project within a reasonable time, and require the Architect, at Architect's cost, to revise the scope of the Project or its quality, or both, so as to reduce the Project Construction Cost Estimate and to modify the Project Construction Cost Estimate to within the Construction Budget, or (3) abandon the Project.

### 3.7 Construction Administration Services

Upon award of construction contract by JPA, Architect shall provide all the construction administration services set forth below:

- a. Interpret the Contract Documents and furnish four (4) copies, one of which in reproducible form, of all clarification drawings and other documentation required. Prepare, for approval by Project Manager, architectural instruction bulletins that are necessary as a result of such interpretations and/or clarifications. Architectural instruction bulletins may be used by the JPA for the solicitation of price quotations from the construction contractor. Analyze price quotations received from the construction contractor for proposed change orders and advise Project Manager as to the acceptability of same.
- b. Make all revisions and changes to the Contract Documents as directed by Project Manager to correct errors, conflicts or omissions.
- c. Make periodic visits (normally bi-weekly) to the Project to review and advise the Project Manager on the progress of the work, the character, scope and detail of construction, the quantity and quality of materials and equipment, and the standard of workmanship conform to the intent of the Architect as expressed in the Contract Documents; attend Project meetings, prepare minutes of such Project meetings and forward to the Project Manager for distribution by the Project Manager. A written report detailing field observations shall be submitted to the Project Manager following each site visit.
- d. Provide technical direction to interpret the Contract Documents and advise the Project Manager of all recommendations as required.
- e. Make prompt recommendations on claims, disputes, and other matters in question between the construction contractor and JPA relating to the execution or progress of the work or the interpretation of the Contract Documents.

- f. Analyze and advise the Project Manager as to acceptability of test reports, methods, materials, equipment and systems.
- g. Review and advise the Project Manager as to the acceptability of substitutions proposed by construction contractor.
- h. Assist the Project Manager in reviewing and approving all construction contractor pay requests.
- i. Review and advise the Project Manager as to the acceptability of schedules, shop drawings, laboratory reports, samples, fabrication, erection, and setting drawings, wiring and control diagrams, schedules, list of materials, and equipment and other descriptive data pertaining to materials, equipment or methods of construction.
- j. Assemble and deliver to Project Manager written guarantees, operating and maintenance instructions books, diagrams and charts required of the construction contractor.
- k. Assemble and deliver to Project Manager three (3) copies of a summary report containing information on all approved submittals arranged by technical specification division. The report shall contain, at a minimum, information of types of equipment and/or material, model numbers, sizes, equipment ratings, and product line and color of interior finishes, etc.
- l. Participate in the final inspection of the Project, write punch list, and advise the Project Manager as to the acceptability of work performed by construction contractor.
- m. Promptly after recording the Notice of Completion by the JPA, furnish the JPA, at no additional expense to the JPA, one (1) complete set of permanent mylar transparent reproductions of the as-built tracings and a recorded copy on a compact disc – recordable (CD-R). File format shall be compatible with MS-DOS and AutoCAD 14 software or newer (dwg. file format). The reproducible transparencies and CD-R will be of the final as-built drawings and specifications including such revisions that may have been made in the course of construction as represented in documentation provided to the Architect or as known by the Architect. Revisions or changes shall be properly annotated on the reproducible transparencies and cross-referenced. Each transparency sheet shall be prominently noted "Record Drawing". Information on reproducible drawings shall not be delegated by the Architect to the construction contractor or any other person.

#### ARTICLE 4. COMPENSATION

The JPA shall compensate the Architect as follows:

- 4.1 For the Architect's services as described in Article 3, Basic Services of Architect, and Attachment A, Scope of Work, of this Contract, the basis of compensation shall be as follows:
  - a. Upon completion of Pre-Design Services phase and approval thereof by Project Manager, payment in the amount of five percent (5%) of the Architect's fixed fee.
  - b. Upon completion of Schematic Design Services phase and approval thereof by Project Manager, payment in the amount sufficient to increase the total amounts paid to the Architect to fifteen percent (15%) of the Architect's fixed fee.
  - c. Upon completion of Design Development Services phase and approval thereof by the Project Manager, payment in the amount sufficient to increase the total amount paid to the Architect to thirty percent (30%) of the Architect's fixed fee.

- d. Upon fifty percent (50%) completion of the Construction Document Services phase of their work as determined by the Project Manager, payment in the amount sufficient to increase the total amount paid to the Architect to fifty percent (50%) of the Architect's fixed fee.
- e. Upon completion of the Construction Document Services phase of the work, upon documents being filed as required with all jurisdictional agencies for necessary approvals and permits, payment in the amount sufficient to increase the total amount paid to the Architect to seventy percent (70%) of the Architect's fixed fee.
- f. Upon completion of corrections to the Construction Documents as required by the appropriate jurisdictional agencies and upon approval by the Project Manager, payment in the amount sufficient to increase the total amount paid to the Architect to eighty percent (80%) of the Architect's fixed fee.
- g. As construction progresses, payment in the amount sufficient to increase the total amount paid to the Architect to ninety-eight percent (98%) of the Architect's fixed fee, shall be paid in monthly installments in the proportion of the completed Project to the entire Project.
- h. Upon acceptance by the Board of the completed project construction and approval by the Project Manager of the "Record Drawings", the unpaid balance of the Architect's fixed fee shall be paid.
- i. All demands for payment under this Contract shall be submitted in quadruplicate to the Project Manager. The demand for payment shall indicate the amount due and the amounts previously paid.
- j. Payment for Extra Services as described in Article 6, Extra Services of Architect, shall be made only after the Architect provides the JPA with an agreed upon "not-to-exceed" amount, as determined by negotiation with the Project Manager and approved by the Board, including all relative costs, prior to the start of any work.

#### ARTICLE 5. NO SEPARATELY REIMBURSABLE EXPENSES

Rent, utilities, word processing, in-house courier, local telephone charges, office supplies, support staff, local area travel, meal expenses, time spent to provide necessary information for JPA audits or billing inquiries, and any/all other expense items are included as part of the Architect's total fixed fee and are not separately reimbursable.

#### ARTICLE 6. EXTRA SERVICES OF CONSULTANT

- 6.1 All services of Architect's personnel or sub-consultants not specifically provided for in this Contract, including but not limited to Article 3, Basic Services of Architect, and Attachment A, Scope of Work, shall be considered Extra Services and shall not be paid without the prior approval of JPA. Extra Services performed that have not been properly authorized by JPA shall all be non-reimbursable. Such Extra Services shall be a gratuitous effort by Architect.
- 6.2 The following Extra Services, when authorized by a written JPA change authorization, shall be paid for by JPA as provided in Article 4.1j, Compensation.
  - a. Revision to previously approved documents to accommodate changes (excluding corrections of errors, conflicts and/or omissions by Architect, or changes initiated by Architect) when so directed by JPA, provided, however, that no compensation for extra services shall be paid for revisions which may be requested by JPA pursuant to Article 3.6d or 3.6e, Bidding Services.

- b. Preparation of revisions and changes requested by JPA (excluding corrections of errors and omissions by Architect) or as stated in Article 3.7a, after a construction contract has been awarded.
- c. Additional services necessary to supervise correction of defects in or damage to the Project (excluding corrections of defects or damage arising from the errors or omissions of Architect).
- d. Additional services caused by the delinquency or insolvency of construction contractor during or after the guarantee period.
- e. The service of JPA approved consultants other than those employed or retained by Architect pursuant to Article 3.1, General Services. Upon written approval by the JPA, Architect may retain special consultants to investigate the Project and furnish to the Architect a report containing all relevant information. Six (6) copies of said report shall be filed with the Project Manager.
- f. Preparation of models other than study models made at Architect's option.
- g. Whenever any documents are changed pursuant to this Article 6, Extra Services of Architect, the Architect shall provide additional copies of the revised documents for review purposes as requested by the Project Manager at JPA expense. The Project Manager reserves the right to select the type of reproduction and the establishment where said reproduction will be done.
- h. Additional copies of any documents requested by JPA, but not including additional copies of any documents required under Article 6.2a thru g.

#### ARTICLE 7 - PAYMENT BY ELECTRONIC FUND TRANSFER

Architect shall accept all payments from JPA via electronic funds transfer (EFT) directly deposited into the Architect's designated checking or other bank account. Architect shall promptly comply with directions and accurately complete forms provided by JPA required to process EFT payments.

#### ARTICLE 8. RECORDS

All records relating to the Architect's personnel, consultants, extra services and reimbursable expenses, pertaining to the Project shall be kept in a generally acceptable accounting format and shall be available to the JPA upon request, and shall be maintained by Architect for not less than three (3) years after the Notice of Completion is filed.

#### ARTICLE 9. JPA RESPONSIBILITIES

The JPA is responsible to provide the following:

- 9.1 Project Budget and information relating to facility requirements, and project scheduling.
- 9.2 As deemed necessary by JPA, the Architect will provide soils investigation (borings, seismic stability, etc.), topographic survey and present reports, studies and recommendations thereon to the JPA as part of the Architect's total fixed fee.
- 9.3 Reproduction of final drawings and specifications for bidding.
- 9.4 Environmental review as required. (Based upon the reports, studies, documents and other information prepared by the Architect under paragraph 3.2 a. 2., and required by the JPA to use in the processing of the Project's environmental review in compliance with CEQA .)

- 9.5 Site approval.
- 9.6 Building permits, as required.
- 9.7 Any available construction drawings of similar construction, to assist the Architect in economically accomplishing the design of the facility to the satisfaction of the JPA.
- 9.8 Necessary bid package document forms.
- 9.9 Construction Site Representative (Inspector) as the JPA deems necessary.
- 9.10 Notify the Architect in writing of JPA procedures required and name the JPA representative authorized to act in its behalf. JPA shall review documents submitted by the Architect and shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the Project.
- 9.11 Nothing in this Agreement nor any act or failure to act on the part of the JPA shall be construed as a waiver of claim by JPA for any defects or deficiencies in the plans.

#### ARTICLE 10. DOCUMENTS

All plans and specifications and other documents prepared by Architect shall become and remain the property of JPA. Architect and JPA shall retain reproducible copies of all documents for not less than three (3) years after the Notice of Completion is filed.

#### ARTICLE 11. TERMINATION OR SUSPENSION OF CONTRACT

- 11.1 JPA reserves and has the right and privilege of canceling, terminating, suspending or abandoning the Contract or the execution of any work in connection with this Contract at any time upon written notice to the Architect. The JPA's Project Manager is authorized to exercise the JPA's rights with respect to any termination of this Contract. The Architect may terminate this Contract upon 30 days written notice to JPA, should the JPA substantially fail to perform in accordance with its responsibilities. Upon receipt or giving of such notice of termination, Architect shall provide no further services to JPA without specific request or authorization of the JPA.
- 11.2 In the event of any termination, all finished and unfinished design and research documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Architect shall, at the option of the JPA, become the property of the JPA.
- 11.3 In the event of any termination, JPA shall pay to Architect as full payment for all services performed and all expenses incurred under this Contract the sum due and payable, as determined by JPA. In ascertaining the services actually rendered hereunder up to the date of termination of this Contract, consideration shall be given to completed work and work in progress, whether delivered to JPA or in possession of Architect.
- 11.4 It is recognized that JPA may, at its sole discretion defer the solicitation of bids. Architect agrees to remain responsible for completion of all professional services under this Contract for a period of one (1) year commencing on the date of submission of the final approved Construction Documents and completion of all services under Article 3, Sections 3.1 through 3.5, Basic Services of Architect. If, at the end of the one (1) year period the JPA has not proceeded with the solicitation of bids, Architect may, by written notice to the JPA, terminate this Contract. It is specifically agreed that the written notice is essential and the one (1) year period shall automatically be extended until receipt of notice.

- 11.5 If, after payment of the amount required to be paid under Article 11, Termination or Suspension of Contract, following the termination of the Contract, JPA should decide to complete the original Project, (or substantially the same Project), JPA shall have the right of utilization of any original tracings, drawings, calculations, specifications, estimates and other documents and research studies prepared under this Contract by Architect who shall make them available to JPA. JPA agrees to credit Architect with such authorship as may be due him, but is not required to renew the Contract. Should the JPA choose to complete the Project and not renew the Contract, or make future modifications to the Construction Documents, the JPA shall indemnify the Architect to the fullest extent of the law.

## ARTICLE 12. INDEMNIFICATION

- 12.1 Architect shall defend and indemnify JPA for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.
- 12.2. Additionally, to the extent the Architect is not acting as a design professional, the Architect agrees to indemnify, defend (with counsel reasonably approved by JPA) and hold harmless the JPA and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the JPA on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The Architect's indemnification obligation applies to the JPA's "active" as well as "passive" negligence but does not apply to the JPA's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

## ARTICLE 13. INSURANCE

- 13.1 Insurance: The Architect agrees to provide insurance set forth in accordance with the requirements herein. If the Architect uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Architect agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the Contract services.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Architect shall secure and maintain throughout the Contract term the following types of insurance with limits as shown:

- a. **Workers' Compensation/Employers Liability** - A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Architect and all risks to such persons under this Contract.

If Architect has no employees, it may certify or warrant to the JPA that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the JPA.

With respect to Architects that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

- b. **Commercial/General Liability Insurance** – The Architect shall carry General Liability Insurance covering all operations performed by or on behalf of the Architect providing coverage for bodily

injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- (a) Premises operations and mobile equipment.
- (b) Products and completed operations.
- (c) Broad form property damage (including completed operations).
- (d) Explosion, collapse and underground hazards.
- (e) Personal injury
- (f) Contractual liability.
- (g) \$2,000,000 general aggregate limit.

- c. **Automobile Liability Insurance** - Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Architect is transporting one or more non-employee passengers in performance of Contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Architect owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- d. **Professional Liability** – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim or occurrence and two million (\$2,000,000) aggregate limits

or

**Errors and Omissions Liability Insurance** with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits

or

**Directors and Officers Insurance** coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the JPA.

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the Contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after Contract completion.

- e. **Umbrella Liability Insurance** - An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

- 13.2 **Additional Named Insured** - All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the JPA and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the JPA to vicarious liability but shall allow coverage for the JPA to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

- 13.3 **Waiver of Subrogation Rights** - The Architect shall require the carriers of required coverages to waive all rights of subrogation against the JPA, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Architect and Architect's employees

or agents from waiving the right of subrogation prior to a loss or claim. The Architect hereby waives all rights of subrogation against the JPA.

- 13.4 Policies Primary and Non-Contributory - All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the JPA.
- 13.5 Severability of Interests - The Architect agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Architect and the JPA or between the JPA and any other insured or additional insured under the policy.
- 13.6 Proof of Coverage - The Architect shall furnish Certificates of Insurance to the JPA evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the JPA, and Architect shall maintain such insurance from the time Architect commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Contract, the Architect shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
- 13.7 Acceptability of Insurance Carrier - Unless otherwise approved by JPA, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII".
- 13.8 Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by JPA.
- 13.9 Failure to Procure Coverage - In the event that any policy of insurance required under this Contract does not comply with the requirements, is not procured, or is canceled and not replaced, the JPA has the right but not the obligation or duty to cancel the Contract or obtain insurance if it deems necessary and any premiums paid by the JPA will be promptly reimbursed by the Architect or JPA payments to the Architect will be reduced to pay for JPA purchased insurance.
- 13.10 Insurance Review - Insurance requirements are subject to periodic review by the JPA. The JPA is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever JPA determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the JPA. In addition, if the JPA determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the JPA or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the JPA, inflation, or any other item reasonably related to the JPA's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. Architect agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the JPA to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the JPA.

#### ARTICLE 14. SUCCESSORS AND ASSIGNS

- 14.1 This Contract shall be binding upon JPA and Architect and their respective successors and assigns.

- 14.2 Neither the performance of this Contract, nor any part thereof, nor any monies due or to become due hereunder may be assigned by Architect without the prior written consent and approval of JPA.
- 14.3 Death or Incapacity: If the Architect transacts business as an individual, his death or incapacity shall automatically terminate this Contract as of the date of such event, and neither he nor his estate shall have any further right to perform hereunder, and JPA shall pay him or his estate the compensation payable under Article 4, Compensation, for any services rendered prior to such termination not heretofore paid, reduced by the amount of additional costs which will be incurred by JPA be reason of such termination. If there be more than one Architect and any one of them die or become incapacitated and the others continue to render the services covered herein, the JPA will make payment to those continuing as though there had been no such death or incapacity and the JPA will not be obliged to take any account of the person who died or became incapacitated or to make any payments to such person or his estate. The provision shall apply in the event of progressive or simultaneous occasions of death or incapacity among any group of persons named as Architect herein, and if death or incapacity befalls the last one of such group before this Contract is fully performed, then the rights shall be as if there had been only one Architect.

#### ARTICLE 15. NOTICES

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally, or by facsimile, or sent by prepaid, first-class mail. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated two (2) working days from the time of mailing if mailed as provided in this paragraph.

Architect's address: As shown on page one of this Contract.

JPA's address: Brian M. Cronin, Secretary  
351 North Mountain View Ave., Third Floor  
San Bernardino, CA 92415-0010

#### ARTICLE 16. AUDITS AND RECORDS RETENTION

All records pertaining to services provided by Architect under this Contract shall be available for examination and audit by JPA representatives for a period of three years after filing of the Notice of Completion or until all pending JPA audits are completed or until all pending litigation is completed, whichever is later. All records pertaining to services provided by Architect under this Contract shall be retained locally and made available upon the JPA's reasonable advance written notice to Architect or turned over to JPA. In the event a federal or state grant or other federal or state financing participates in the funding of this Project, the Architect shall permit federal and state authorities access to and grant the right to examine its books covering its work under this Contract. Architect shall comply with all applicable federal and/or state requirements as to work hours, overtime compensation, nondiscrimination, and contingent fees.

#### ARTICLE 17. NONDISCRIMINATION

In connection with the performance of Architect pursuant to this Contract, Architect will not willfully discriminate against any employee or applicant for employment because of race, color, religion, ancestry, gender, marital status, sexual orientation, age, political affiliation, disability or national origin. Architect will take action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color,

religion, ancestry, gender, marital status, sexual orientation, age, political affiliation, disability or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

#### ARTICLE 18. WAIVER

Architect shall not be relieved of liability to the JPA for damages sustained by the JPA by virtue of any breach of the Contract by Architect, and JPA may withhold any payments to Architect for the purpose of set-off until such time as the exact amount of damages due JPA from Architect is determined. The waiver by either party or any breach to this Contract shall not constitute a waiver as to any succeeding breach.

#### ARTICLE 19. REPRESENTATIVE OF JPA

The Project Manager shall represent the JPA in all matters pertaining to the services to be rendered under this Contract including termination of this Contract and shall be the final authority in all matters pertaining to the Project.

#### ARTICLE 20. ERRORS, OMISSIONS AND/OR CONFLICTS

Architect shall be responsible for the integrity of all design and research studies prepared or approved by Architect and should JPA suffer damages due to errors, omissions and/or conflicts within the Contract Documents, the Architect shall be responsible to JPA for costs of all such damages.

#### ARTICLE 21. RESERVED

#### ARTICLE 22. INACCURACIES OR MISREPRESENTATIONS

If during the course of the administration of this Contract, the JPA determines that the Architect has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the JPA, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the JPA is entitled to pursue any available legal remedies.

#### ARTICLE 23. CONFLICT OF INTEREST

Architect shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the JPA. Architect shall make a reasonable effort to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the JPA determines a conflict of interest situation exists, the JPA may disallow any increase in costs associated with the conflict of interest situation, and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Architect's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

#### ARTICLE 24. IMPROPER CONSIDERATION

Architect shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the JPA in an attempt to secure favorable treatment regarding this Contract. The JPA, by written notice, may immediately terminate this Contract if it determines that any improper consideration, as described in the preceding paragraph, was offered to any officer, employee or agent of the JPA. Architect shall immediately report any attempt by a JPA officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Architect. The report shall be made to the Project Manager or to the JPA Board Chairman. In the event of a termination under this provision, the JPA is entitled to pursue any available legal remedies.

#### ARTICLE 25. INDEPENDENT CONTRACTOR

The parties hereto, in the performance of this Contract, will be acting in their individual capacities and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Neither party shall have any right, power or authority to create any obligation, express or implied, on behalf of the other except as defined in this Contract or as mutually agreed to under the terms of this Contract.

#### ARTICLE 26. VENUE

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claim concerning this Contract, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

#### ARTICLE 27. ATTORNEY'S FEES AND COSTS

If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against the JPA, including such costs and attorneys' fees payable under Article 12, INDEMNIFICATION.

#### ARTICLE 28. JURY TRIAL WAIVER

Architect and JPA hereby waive their respective right to trial by jury and agree to accept trial by judge alone of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either Architect against JPA or JPA against Architect on any matter whatsoever arising out of, or in any way connected with, this Contract, the relationship of Architect and JPA, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

#### ARTICLE 29. LAW

This Contract shall be construed and interpreted in accordance with the laws of the State of California.

## ARTICLE 30. American Recovery and Reinvestment Act of 2009

In the event that the JPA notifies the Architect that this Contract is being funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 ("ARRA"), signed into law on February 17, 2009, Architect will comply with the following

### **Use of ARRA Funds and Requirements**

Section 1605 of ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance or repair of a public building or public work (both as defined in 2 CFR 176.140) unless all of the iron, steel and manufactured goods (as defined in 2 CFR 176.140) used in the project are produced in the United States. A waiver is available under three limited circumstances: (i) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality; (ii) Inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or (iii) Applying the domestic preference would be inconsistent with the public interest. This is referred to as the "Buy American" requirement. Request for a waiver must be made to the JPA for an appropriate determination.

Section 1606 of ARRA requires that laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 31). This is referred to as the "wage rate" requirement.

The above described provisions constitute notice under ARRA of the Buy American and wage rate requirements. Architect must contact the JPA contact if it has any questions regarding the applicability or implementation of the ARRA Buy American and wage rate requirements. Architect will also be required to provide detailed information regarding compliance with the Buy American requirements, expenditure of funds and wages paid to employees so that the JPA may fulfill any reporting requirements it has under ARRA. The information may be required as frequently as monthly or quarterly. Architect agrees to fully cooperate in providing information or documents as requested by the JPA pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

Architect may also be required to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov> and may be required to have its subcontractors also register in the same database. Architect must contact the JPA with any questions regarding registration requirements.

### **Schedule of Expenditure of Federal Awards**

In addition to the requirements described in "Use of ARRA Funds and Requirements," proper accounting and reporting of ARRA expenditures in single audits is required. Architect agrees to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by the Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations." This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512 (c).

In addition, Architect agrees to separately identify to each subcontractor and document at the time of sub-contract and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds.

Architect may be required to provide detailed information regarding expenditures so that the JPA may fulfill any reporting requirements under ARRA described in this section. The information may be required as frequently as monthly or quarterly. Architect agrees to fully cooperate in providing information or documents as requested by

the JPA pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

### **Whistleblower Protection**

Architect agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-Federal contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to the implementation or use of recovery funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.

Architect agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Division A, Title XV of the ARRA.

### **ARTICLE 31. PREVAILING WAGE LAWS**

By its execution of this Contract, Architect certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. As well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Scope of Work is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Architect agrees to fully comply with such Prevailing Wage Laws. Architect shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Scope of Work available to interested parties upon request, and shall post copies at the Architect's principal place of business and at the Project site. Architect will also adhere to any other applicable requirements, including but not limited to, those regarding the employment of apprentices, travel and subsistence pay, retention and inspection of payroll records, workers compensation and forfeiture of penalties prescribed in the Labor Code for violations. Architect shall defend, indemnify and hold the JPA, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with Prevailing Wage Laws.

### **ARTICLE 32. ARCHITECT'S GENERAL RESPONSIBILITIES**

- 32.1 Architect will designate an individual to serve as the primary point of contact for the Contract. Architect shall notify JPA when the primary contact will be unavailable/out of the office for one (1) or more workdays. Architect shall not change the primary contact without written acknowledgement to the JPA. Architect or designee must respond to the JPA inquiries within two (2) JPA business days.
- 32.2 Architect shall notify the JPA, in writing, of any change in mailing address and/or physical location within ten (10) calendar days of the change, and shall immediately notify JPA of changes in telephone or fax numbers.
- 32.3 Architect agrees not to enter into any subcontracting agreements for work contemplated under the Contract without first obtaining written approval from the Project Manager. Any subcontracting shall be subject to the same contract provisions as Architect. Architect shall be fully responsible for the performance and payments of any subcontractor.
- 32.4 Architect shall notify JPA of any continuing vacancies and any positions that become vacant during the term of this Contract that will result in reduction of services to be provided under this Contract. Upon notice

of vacancies, Architect shall apprise JPA of the steps being taken to provide the services and to fill the position as expeditiously as possible. Vacancies and associated problems shall be reported to JPA on each periodically required report for the duration of said vacancies and/or problems.

- 32.5 Any alterations, variations, modifications, or waivers of provisions of the Contract, unless specifically allowed in the Contract, shall be valid only when they have been reduced to writing, duly signed and approved by the duly authorized officers of both parties as an amendment to this Contract. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- 32.6 If any provision of the Contract is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the Contract shall not be affected.
- 32.7 Architect will ensure that it has all necessary licenses and permits required by the laws of the United States, State of California, County of San Bernardino, Town and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of this Contract. Architect will notify JPA immediately of loss or suspension of any such licenses and permits. Failure to maintain a required license or permit may result in immediate termination of this Contract.
- 32.8 Architect, its agents and employees shall be bound by and comply with all applicable provisions of the Labor Code and such federal, state and local laws which affect the conduct of the work.
- 32.9 No news releases, advertisements, public announcements or photographs arising out of this Contract or Architect's relationship with the JPA may be made or used without prior written approval of the JPA.
- 32.10 In the event of a problem or potential problem that will impact the quality or quantity of work or the level of performance under this Contract, notification will be made within one working day, in writing and by telephone to the JPA.
- 32.11 Architect agrees to comply with the provisions of Executive Orders, 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment Practice Act, Equal Employment Opportunity, and other applicable Federal, State, County and Town laws, regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

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32.12 Architect shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Contract.

IN WITNESS WHEREOF, the JPA and the Architect have caused this Contract to be subscribed by their duly authorized officers on their behalf.

ANIMAL CARE JOINT POWERS AUTHORITY

► \_\_\_\_\_  
Neil Derry, Chairman, Board of Directors

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

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By \_\_\_\_\_  
Clerk of the Board of Directors of the JPA.

Approved as to Legal Form.

Ruth E. Stringer  
JPA Counsel

By \_\_\_\_\_  
Rex A. Hinesley, Deputy

Williams Architects, Inc.  
*(Print or type name of corporation, company, contractor, etc.)*

By ► \_\_\_\_\_  
*(Authorized signature - sign in blue ink)*

Name Max E. Williams, AIA, AICP  
*(Print or type name of person signing contract)*

Title Architect/President  
*(Print or Type)*

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

ATTACHMENT A  
SCOPE OF WORK

[Selected Vendor's Scope of Work as modified will be placed here]

# FEE PROPOSAL

Animal Care JPA- Yucca Valley Animal Shelter

Consultants All-Inclusive Fee  
(Including reimbursable expenses, such as travel cost,  
printing cost) See spread sheet for detail by phase and  
discipline.

\$251,561.00

Proposed Man Hours for Design  
(Including estimated man hours for agency(ies) reviews)  
From Notice to Proceed through Plans Approved for  
Building Permits.

1942 Man Hours

Proposed Schedule for Design  
(Including estimated agency(ies) reviews. Does not  
include CEQA preparation and processing time which  
may require four to six months..See summary project  
schedule.

34 Weeks

Estimate of Construction Schedule  
(Including bid/award/construction/furnishing/occupancy)

53 Weeks

  
\_\_\_\_\_  
Signature & Title

Max E. Williams AIA, AICP  
Architect/President C8402

Williams Architects Inc.  
(Firm)

Consultants must complete this form.

Project Description: Yucca Valley Animal Shelter - Option No. 5

Est. construction cost of building:

Base Fee @ 6.0% \$168,000 Site & Parkway (ASMPE) \$800,000 TOTAL: \$2,800,000

Manual entry item

Basic Services	PREDES 5%	SCHEM 10%	DD 15%	CD(50%) 20%	CD(100%) 20%	PC 10%	B 1%	CA 17%	ACCEPT 2%	TOTAL 100%	DISTRIBUTION
1. Architecture	3,232.00	6,464.00	9,696.00	12,928.00	12,928.00	6,464.00	646.40	10,988.80	1,292.80	64,640.00	38.5%
2. Structural	840.00	1,680.00	2,520.00	3,360.00	3,360.00	1,680.00	168.00	2,856.00	336.00	15,800.00	10.0%
3. Mechanical	1,008.00	2,016.00	3,024.00	4,032.00	4,032.00	2,016.00	201.60	3,427.20	403.20	20,160.00	12.0%
4. Plumbing	504.00	1,008.00	1,512.00	2,016.00	2,016.00	1,008.00	100.80	1,713.60	201.60	10,080.00	6.0%
5. Electrical	1,008.00	2,016.00	3,024.00	4,032.00	4,032.00	2,016.00	201.60	3,427.20	403.20	20,160.00	12.0%
6. Specs/Hardware						4,000.00				4,000.00	2.4%
7. Sil. Bldg. Struct.	1,500.00					10,000.00		500.00		12,000.00	7.1%
8. Profit	971.04	1,942.08	2,913.12	3,164.16	3,164.16	3,262.08	158.21	2,749.54	316.42	17,740.80	12.0%
9. Subtotal	9,063.04	14,766.08	22,149.12	29,532.16	29,532.16	30,446.08	1,476.61	25,662.34	2,953.22	165,580.80	100.0%

165,581

Additional Consultants	PREDES	SCHEM	DD	CD(50%)	CD(100%)	PC	B	CA	ACCEPT	TOTAL	
10. Civil (grading/util)	5,500.00	3,500.00	3,500.00	11,000.00	9,900.00	500.00	500.00	1,000.00	1,000.00	36,400.00	
11. Landscape		1,000.00				5,000.00		1,500.00	500.00	8,000.00	
12. Soils										0.00	
13. Cost Estimate	5,500.00		5,500.00			5,500.00				16,500.00	
14. Interiors/Furniture				1,500.00	1,500.00					3,000.00	
15. Arbonist	2,000.00							500.00		2,500.00	
16. Biologist	2,000.00							500.00		2,500.00	
17. Reimbursables	750.00	750.00	250.00			500.00	250.00	250.00		2,750.00	
18. Overhead/Profit	3,150.00	1,050.00	1,850.00	2,500.00	2,280.00	2,300.00	150.00	750.00	300.00	14,330.00	
19. Subtotal	18,900.00	6,300.00	11,100.00	15,000.00	13,680.00	13,800.00	900.00	4,500.00	1,800.00	85,950.00	
20. TOTAL FEE	27,963.04	21,066.08	33,249.12	44,532.16	43,212.16	44,246.08	2,376.61	30,162.34	4,753.22	251,580.80	8.98%

SD= Schematic Desig  
 ENTITLE= Entitlement  
 Planning/Zoning Proci  
 DD = Design Developr  
 CD/PC= Construction  
 B= Bid Phase  
 CA = Construction Adr  
 Percent = Percent of C

ANIMAL CARE JOINT POWERS AUTHORITY  
 YUCCA VALLEY ANIMAL SHELTER  
 TOWN OF YUCCA VALLEY, CALIFORNIA  
 29-Jun-10

SUMMARY PROJECT SCHEDULE

<b>PHASE</b>	<b>TIME</b>	<b>MEETINGS</b>
PRE-DESIGN	5 WEEKS	3 STAFF MEETINGS
CEQA	4-6 MONTHS	
SCHEMATIC	4 WEEKS	3 STAFF MEETINGS
REVIEW	2 WEEKS	1 PRESENTATION
DESIGN DEVELOPMENT	4 WEEKS	2 STAFF MEETINGS
REVIEW	1 WEEK	
CONSTRUCTION DOCUMENTS (50%)	4 WEEKS	1 STAFF MEETING
REVIEW	2 WEEKS	
CONSTRUCTION DOCUMENTS (100%)	4 WEEKS	1 STAFF MEETING
REVIEW	2 WEEKS	
PLAN CHECK	6 WEEKS	1 STAFF MEETING
<b>SUBTOTAL</b>	<b>34</b>	
BID	4 WEEKS	1 PRE-BID JOB WALK
AWARD	4 WEEKS	1 STAFF MEETING/ EVALUATION
CONSTRUCTION ADMINISTRATION	40 WEEKS	2 JOB MEETINGS/ MONTH
ACCEPTANCE	2 WEEKS	RECORD DRAWINGS PREPARED
FURNISHINGS	2 WEEKS	OWNER CONTRACT
OCCUPATION	1 WEEK	OPERATIONS/ MAINTENANCE
<b>SUBTOTAL</b>	<b>53</b>	
 <b>TOTAL TIME</b>	 <b>87 WEEKS NOT INCLUDING CEQA PROCESSING</b>	



# INTERSTATE 215 WIDENING PROJECT COMMUTER ALERT

**Date:** Friday, August 20, 2010  
**Region:** San Bernardino, California  
**Project Helpline:** (877) 215-NEWS  
**Project Web site:** [www.sanbag.ca.gov/215](http://www.sanbag.ca.gov/215)

**SAN BERNARDINO** – California Department of Transportation & San Bernardino Associated Governments (SANBAG) are continuing work on the project. This week, crews will continue constructing various walls and bridges and conducting electrical work in the project area.

SCHEDULED CLOSURES WEEK OF AUGUST 22, 2010		
DATE	LOCATION	ROAD/DETOUR INFORMATION
Mon., August 23 10 p.m. to 5 a.m.	University Pkwy. lane closures from Hallmark Pkwy. to State St.	No detour necessary as at least one lane is expected to remain open in each direction at all times.
Sun., August 22 - Thurs., August 26 8 p.m. to 6 a.m. <b>Nightly</b>	NB and SB I-215 alternating lane closures between Massachusetts Ave. and University Pkwy.	No detour necessary as at least one lane is expected to remain open at all times.
LONG-TERM CLOSURES		
Starting June 21, 2010 until approx. March 2011		Full closure of SB 5 <sup>th</sup> St. off-ramp
Starting April 19, 2010 until mid-September 2010		Full connector closure from SB I-215 to EB SR-210
Starting April 2, 2010 for two years		27 <sup>th</sup> St./Mt. Vernon Ave. SB on-ramp and NB off-ramp
Starting December 2009 until 2013		SB I-215 Baseline Ave. off-ramp
Starting January 2010 for two years		NB Highland Avenue on- and off-ramps
Starting January 2010 until late 2010		Full closure of 9 <sup>th</sup> St. bridge
Starting October 2009 until new 5 <sup>th</sup> St. ramps are constructed		Permanent closure of 4 <sup>th</sup> St. on-ramps for new 5 <sup>th</sup> St. ramps

Caltrans and SANBAG would like to thank motorists for their continued patience and support during this improvement project and ask that motorists be aware of the construction area and always make a point to...

***SLOW FOR THE CONE ZONE.***

**###**

