

**AGREEMENT FOR SPECIAL SERVICES**

**MERCED COUNTY  
CONTRACT NO. \_\_\_\_\_**

**THIS AGREEMENT** is made and entered into by and between the County of Merced, a political subdivision of the State of California, (hereinafter referred to as "COUNTY"), and New EMS Medical Director's Name Goes Here (hereinafter referred to as "CONSULTANT").

WHEREAS, the Department is the designated Emergency Medical Services (EMS) Agency for Merced County, and,

WHEREAS, the EMS Agency is required to have the services of a Medical Director, and desires to retain Consultant to provide Physician Services and,

WHEREAS, the Consultant is a Board Certified Physician in Emergency Medicine, specially trained, experienced and competent to perform such services and,

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, of the Department hereinafter expressed, the parties hereby agree as follows:

**1. SCOPE OF SERVICES**

DUTIES:

The CONSULTANT's duties under the contract are the following:

1. Serve as the Medical Director for the Emergency Medical Services Program of Merced County.

A. Meetings & EMS Functions

- 1) Attend quarterly Emergency Medical Care Committee (EMCC) meetings.
- 2) Attend Trauma System Coordination meetings.
- 3) Attend Technical Advisory Group (TAG) meetings.
- 4) Attend Continuous Quality Improvement (CQI) meetings.

B. Medical Control

- 1) Provide for review and approval of EMS Agency policies/protocols/guidelines as necessary.

- 2) Assist with medical expertise for Agency task forces, and medical sub-committees as required for development of the above-referenced policies/protocols/guidelines.
- 3) Work closely with county personnel, Public Health/LEMSA Director, LEMSA Administrator and constituency groups to ensure the highest clinical standards.
- 4) Work closely with area hospitals to coordinate care and to ensure a smooth interface of patient care at the hospital.
- 5) Ensure that the EMS System provides state-of-the-art, safe care to the county's citizens and visitors.
- 6) Ensure excellent clinical care through chart review, direct observation, quality assurance/improvement processes and data analysis.

C. Certification/Accreditation/Authorization

- 1) Provide for Certification, Accreditation and Authorization, as appropriate for EMS personnel meeting the requirements as set forth by state and local regulations and/or policies.

D. Disciplinary Action

- 1) Make recommendations on disposition of Incident Reports.
- 2) Provide counseling and/or disciplinary action for certified/authorized EMS personnel, as required.

## 2. TERM

The term of this Agreement shall commence on the \_\_\_\_ day of \_\_\_\_\_, 2014, and continue until the \_\_\_\_ day of \_\_\_\_\_, 2017, unless sooner terminated in accordance with the sections entitled "TERMINATION FOR CONVENIENCE" OR "TERMINATION FOR CAUSE" as specified elsewhere in this Agreement.

## 3. COMPENSATION

County AGREES TO PAY consultant an hourly rate of \_\_\_\_ Dollars and No/100 Cents (\$\_\_.00) per hour for hours actually engaged in the performance of such work, as are more specifically set forth under Section "SCOPE OF SERVICES," whether said work be performed at COUNTY premises or elsewhere, including compensation paid for time necessary to travel from CONSULTANT'S location to COUNTY premises. This fee includes, but is not limited to, CONSULTANT'S time on-site, preparation time associated

with this Agreement, and all out-of-pocket expenses. Mileage for any travel associated with this Agreement will be reimbursed in addition to the hourly rate reimbursement. No other fees or expenses of any kind shall be paid to CONSULTANT in addition to those rates or expenses listed herein. In no event shall the total services to be performed by CONSULTANT hereunder exceed a Total Contract Price of \$ \_\_\_\_\_. This fee may be subject to withholding for State of California income tax.

Any and/or all payments made under this Agreement shall be paid by check, payable to the order of the CONSULTANT and be mailed to CONSULTANT at:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

CONSULTANT may request that COUNTY mail the check to CONSULTANT to such other address as CONSULTANT may from time-to-time designate to COUNTY. Such request must be made in writing in accordance with the procedures as outlined under Section "NOTICES."

#### **4. PRICING CONDITIONS**

County agrees to pay Consultant for all services required herein as prescribed, fixed at the submitted pricing, which shall include reimbursement for all expenses incurred. No other expenses shall be paid to Consultant without formal approval of the County's Board of Supervisors or its authorized agent. In no event shall the total services to be performed hereunder exceed \$ \_\_\_\_\_.

County shall not be responsible for any charges or expenses incurred by Consultant, his/her agents, employees or independent contractors, other than those listed herein, in connection with the performance of services hereunder unless authorized in advance in writing by County.

#### **5. TERMS OF PAYMENT**

Payment shall be only for full and complete satisfactory performance of the services required to be provided herein and as set forth under Section "SCOPE OF SERVICES." Payment shall be made in the following manner:

CONSULTANT shall submit monthly itemized invoices, or alternate documentation as deemed appropriate in advance by COUNTY, for services it has provided and for the amount owed under this Agreement. In addition to the invoices submitted by the CONSULTANT for payment, CONSULTANT must complete and submit to COUNTY, Form W-9, "A Request for Taxpayer Identification Number and Certification" (<http://www.irs.gov/pub/irs-pdf/fw9.pdf>). Both invoices and the W-9 form shall be forwarded to the COUNTY at the COUNTY address indicated under Section "NOTICES" of this Agreement.

Each invoice or approved alternate documentation must:

- A. Detail by task the service performed by CONSULTANT.
- B. Detail the labor cost (number of hours) attributed to each task.
- C. Show the cumulative cost for all tasks performed to date.
- D. Provide any additional information and data requested by COUNTY as deemed necessary by COUNTY to properly evaluate or process CONSULTANT'S claim.

Upon approval by COUNTY, the fee due hereunder shall be paid to CONSULTANT within thirty (30) days following receipt of a proper invoice.

**6. NO PAYMENT FOR SERVICE PROVIDED FOLLOWING EXPIRATION OR TERMINATION OF AGREEMENT**

CONSULTANT shall have no claim against COUNTY for payment of any kind whatsoever for any services provided by CONSULTANT which were provided after the expiration or termination of this Agreement.

**7. NOTICES**

All notices, requests, demands or other communications under this Agreement shall be in writing. Notice shall be sufficiently given for all purposes as follows:

- A. Personal Delivery. When personally delivered to the recipient, notice is effective upon delivery.
- B. First Class Mail. When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox.
- C. Certified Mail. When mailed by certified mail, return receipt requested, notice is effective upon receipt, if delivery is confirmed by a return receipt.
- D. Overnight Delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.
- E. Facsimile Transmission. When sent by fax to the last fax number of the recipient known to the party giving notice, notice is effective upon receipt, provided that: a) a duplicate copy of the notice is promptly given by first class mail or certified mail or by overnight delivery, or b) the receiving party delivers a written confirmation of receipt. Any notice given by fax shall be deemed received on the next business day if received after 5:00 P.M. (recipient's time) or on a non-business day.

Any correctly addressed notice that is refused, unclaimed or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messengers or overnight delivery service.

Information for notice to the parties to this Agreement at the time of endorsement of this Agreement is as follows:

County of Merced c/o

Kathleen Grassi  
Merced Co. Dept. of Public Health  
260 E. 15<sup>th</sup> Street  
Merced, CA 95341

Consultant c/o

Name & Address Here

Any party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

**8. CONDITION SUBSEQUENT/NON-APPROPRIATION OF FUNDING**

The compensation paid to CONSULTANT pursuant to this Agreement is based on COUNTY'S continued appropriation of funding for the purpose of this Agreement, as well as the receipt of local, county, state and/or federal funding for this purpose. The parties acknowledge that the nature of government finance is unpredictable, and that the rights and obligations set forth in this Agreement are therefore contingent upon the receipt and/or appropriation of the necessary funds. In the event that the funding is terminated in whole or in part, for any reason, at any time, this Agreement and all obligations of the COUNTY arising from this Agreement shall be immediately discharged. COUNTY agrees to inform CONSULTANT no later than ten (10) calendar days after the COUNTY determines, in its sole judgment, that funding will be terminated and the final date for which funding is available. Under these circumstances, all billing or other claims for compensation or reimbursement by CONSULTANT arising out of performance of this Agreement must be submitted to COUNTY prior to the final date for which funding is available. In the alternative, COUNTY and CONSULTANT may agree, in such circumstance, to a suspension or modification of either party's rights and obligations under this Agreement. Such a modification, if the parties agree hereto, may permit a restoration of previous contract terms in the event funding is reinstated. Also in the alternative, the COUNTY may, if funding is provided to the COUNTY in the form of promises to pay at a later date, whether referred to as "government warrants," "IOUs," or by any other name, the COUNTY may, in its sole discretion, provide similar promises to pay CONSULTANT, which the CONSULTANT hereby agrees to accept as sufficient payment until cash funding becomes available.

## **9. TERMINATION FOR CONVENIENCE**

This Agreement, notwithstanding anything to the contrary herein above or hereinafter set forth, may be terminated by COUNTY at any time without cause or legal excuse by providing the other party with thirty (30) calendar days written notice of such termination.

Upon effective date of termination, COUNTY shall have no further liability to CONSULTANT except for payment for actual services incurred during the performance hereunder. Such liability is limited to the time specified in said notice and for services not previously reimbursed by COUNTY. Such liability is further limited to the extent such costs are actual, necessary, reasonable, and verifiable costs and have been incurred by CONSULTANT prior to, and in connection with, discontinuing the work hereunder.

## **10. TERMINATION FOR CAUSE**

The COUNTY may terminate this Agreement for and be relieved of making any payments to CONSULTANT, and all duties to CONSULTANT should the CONSULTANT fail to perform any material duty or obligation of the Agreement. Notice shall be given as otherwise provided herein. In the event of such termination the COUNTY may proceed with the work in any manner deemed proper by the COUNTY. All costs to the COUNTY shall be deducted from any sum otherwise due the CONSULTANT and the balance, if any, shall be paid to the CONSULTANT upon demand. Such remedy is in addition to such other remedies as may be available to the COUNTY provided by law.

## **11. MODIFICATION OF THE AGREEMENT**

Notwithstanding any of the provisions of this Agreement, the parties may agree to amend this Agreement. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

## **12. GENERAL AND PROFESSIONAL LIABILITY**

As additional consideration, the County agrees to provide Consultant with professional liability insurance with limits of not less than \$2,000,000 per occurrence and general liability insurance with limits of not less than \$1,000,000 per occurrence, while performing services for the County. Such insurance covers claims arising from Consultant's actions or omissions occurring in the course and scope of the performance of this contract. All actions performed outside this contract are the sole liability and obligation of the Consultant. The Department and/or the County of Merced assume no responsibility for any personal injury by Consultant in performance of this Agreement.

## **13. INSURANCE**

- A. Prior to commencement of work, and as a precondition to this contract, CONSULTANT shall purchase and maintain the following types of insurance for the

stated minimum limits indicated during the term of this Agreement. CONSULTANT shall provide a certificate of insurance and endorsements naming COUNTY as an additional insured on each policy. The insurance carrier shall be required to give COUNTY notice of termination at least ten (10) days prior to the intended termination of any specified policy. Each certificate of insurance shall specify if CONSULTANT has a SIR, and if so, CONSULTANT shall be required to provide the entire policy of insurance with which it has a SIR.

1. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage, or alternatively split limits of \$250,000 per person and \$500,000 per accident for bodily injury with \$100,000 per accident for property damage. Limits may be achieved through applicable umbrella liability insurance, following form.

#### B. Insurance Conditions

1. Insurance is to be placed with admitted insurers rated by A.M. Best Co. as A: VII or higher. Lower rated, or approved but not admitted insurers, may be accepted if prior approval is given by the County Risk Manager.
2. Each of the above required policies shall be endorsed to provide the COUNTY with thirty (30) days prior written notice of cancellation. The COUNTY is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of CONSULTANT to furnish insurance during the term of this Agreement.

### 14. INDEMNIFICATION

CONSULTANT has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, COUNTY, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees, and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract or otherwise. This duty shall include, but not be limited to, claims for bodily injury, property damage, personal injury, and contractual damages or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents and officers of CONSULTANT.

CONSULTANT'S liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of the CONSULTANT, its agents, subcontractors and employees. The duty shall extend to any allegation or claim of liability except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of COUNTY. This duty shall arise at the first claim or allegation of liability against COUNTY. CONSULTANT will on request and at its expense, defend any action suit or proceeding arising hereunder. This clause for

indemnification shall be interpreted to the broadest extent permitted by law.

## **15. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that CONSULTANT is an independent contractor in the performance of the work duties and obligations devolving upon CONSULTANT under this Agreement. COUNTY shall neither have, nor exercise any control or direction over the methods by which CONSULTANT shall perform the assigned work and functions. The contractual interest of COUNTY is to assure that the services covered by the Agreement shall be performed and rendered in a competent, efficient and satisfactory manner.

It is agreed that no employer-employee relationship is created and CONSULTANT shall hold COUNTY harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes any contributions or premiums imposed or required by workers' compensation; any unemployment insurance, social security, income tax, and any other obligations from statutes or codes applying to CONSULTANT, or its subcontractors and employees, if any.

It is mutually agreed and understood that CONSULTANT, its subcontractors and employees, if any, shall have no claim under this Agreement or otherwise against the COUNTY for vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause.

CONSULTANT shall ensure that all its personnel and employees, subcontractors and their employees, and any other individuals used to perform the contracted services are aware and expressly agree that COUNTY is not responsible for any benefits, coverage or payment for their efforts.

## **16. RECORDS, INFORMATION AND REPORTS**

CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement. To the extent permitted by law, the COUNTY shall have free access at all proper times or until the expiration of four (4) years after the furnishing of services to such records, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all data, documents, proceedings, and activities pertaining to this Agreement.

To the extent permitted by law, CONSULTANT shall furnish COUNTY such periodic reports as COUNTY may request pertaining to the work or services undertaken pursuant to this Agreement. The costs and obligations incurred or to be incurred in connection shall be borne by the CONSULTANT.

## **17. OWNERSHIP OF DOCUMENTS**

To the extent permitted by law, all technical data, evaluations, plans, specifications, reports, documents, or other work products developed by CONSULTANT hereunder are



the exclusive property of COUNTY and upon request of COUNTY shall be delivered to COUNTY upon completion of the services authorized hereunder. In the event of termination, all finished or unfinished documents and other materials, if any, at the option of COUNTY, CONSULTANT may retain copies thereof for its files and internal use.

Any publication of information directly derived from work performed or data obtained in connection with services rendered under this Agreement must be first approved by COUNTY.

## **18. QUALITY OF SERVICE**

CONSULTANT shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by such profession, and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and/or other items and services furnished under this Agreement.

CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its reports, drawing, specifications, designs and/or other related items or services.

## **19. PERSONAL SATISFACTION AS A CONDITION PRECEDENT**

The obligations of the COUNTY as provided in this Agreement are expressly conditioned upon CONSULTANT'S compliance with the provisions of the contract to the personal satisfaction of the COUNTY. COUNTY shall determine compliance in good faith as a reasonable person would under the circumstances.

## **20. ENTIRE AGREEMENT**

This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other contracts, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

## **21. COUNTY NOT OBLIGATED TO THIRD PARTIES**

The COUNTY shall not be obligated or liable hereunder to any party other than CONSULTANT.

## **22. LAWS, LICENSE, PERMITS AND REGULATIONS**

The CONSULTANT and COUNTY agree to comply with all State laws and regulations that pertain to construction, health and safety, labor, fair employment practice, equal opportunity, and all other matters applicable to CONSULTANT and COUNTY, their subgrantees, contractors, or subcontractor, and their work.

CONSULTANT shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Merced and all other appropriate governmental agencies, including any certification and credentials required by COUNTY. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by COUNTY.

### **23. LIMITED EFFECT OF WAIVER OR PAYMENTS**

In no event shall the making, by the COUNTY, of any payment to CONSULTANT constitute, or be construed as, a waiver by the COUNTY of any breach of covenant, or any default which may then exist, on the part of CONSULTANT. The making of any such payment by the COUNTY while any such breach or default shall exist, shall not be construed as acceptance of substandard or careless work or as relieving CONSULTANT from its full responsibility under this Agreement.

No waiver by either party of any default, breach or condition precedent shall be valid unless made in writing and signed by the parties hereto. No oral waiver of any default, breach or condition precedent shall be binding on any of the parties hereto. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder.

### **24. PERSONNEL**

CONSULTANT represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by CONSULTANT or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

### **25. FEDERALLY EXCLUDED INDIVIDUALS AND ENTITIES**

Employees of CONSULTANT who, because of convictions or because of current or past failures to comply with federal program requirements, become designated as ineligible persons or are identified for exclusion from involvement in federal programs, shall be removed from responsibility or participation in or involvement with all aspects of this federally funded program, until such time as the person or entity is no longer identified on the exclusion list.

CONSULTANT shall be responsible to perform ongoing exclusion reviews of current employees to ensure that CONSULTANT does not hire or contract with any individual or entity under sanction or exclusion by the federal government. As an outcome of ongoing exclusion reviews, CONSULTANT agrees to provide to COUNTY written certification under penalty of perjury that no current employee, subcontractor, entity or agent is on the list of Excluded Individuals and Entities of the Office of the Inspector General (U.S. Department of Health and Human Services) or the General Services Administration's Excluded Parties

Listing System (42 USC 1320). Failure to comply shall lead to contract termination.

**26. APPLICABLE LAW; VENUE**

All parties agree that this Agreement and all documents issued or executed pursuant to this Agreement as well as the rights and obligations of the parties hereunder are subject to and governed by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance. No interpretation of any provision of this Agreement shall be binding upon COUNTY and counsel for COUNTY.

Notwithstanding any other provision of this Agreement, any dispute concerning any question of fact or law arising under this Agreement or any litigation or arbitration arising out of this Agreement, shall be tried in Merced County, unless the parties agree otherwise or are otherwise required by law.

**27. BREACH OF CONTRACT**

Upon breach of this Agreement by CONSULTANT, COUNTY shall have all remedies available to it both in equity and/or law.

**28. REMEDY FOR BREACH AND RIGHT TO CURE**

Notwithstanding anything else in this Agreement to the contrary, if CONSULTANT fails to perform any obligation of this Agreement, the COUNTY may itself perform or cause the performance of, such agreement or obligation. In that event, CONSULTANT will, on demand, fully reimburse the COUNTY for all such expenditures. Alternatively, the COUNTY, at its option, may deduct from any funds owed to CONSULTANT the amount necessary to cover any expenditures under this provision. This is in addition to any other remedies available to the COUNTY by law or as otherwise stated in this Agreement.

**29. CONFLICT OF INTEREST**

CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. CONSULTANT shall ensure that no conflict of interest exists between its officers, employees or subcontractors, and the COUNTY. CONSULTANT shall ensure that no COUNTY officer or employee, in a position in the COUNTY that enables them to influence this Agreement. CONSULTANT shall ensure that no COUNTY employee shall have any relationship to the CONSULTANT or officer or employee of the CONSULTANT, nor that any such person will be employed by CONSULTANT in the performance of this Agreement without immediate divulgence or such fact to the COUNTY.

### **30. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES**

CONSULTANT and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and shall not unlawfully discriminate, deny family care leave, harass, or allow harassment against any employee, applicant for employment, employee or agent of COUNTY, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. CONSULTANT shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of COUNTY employees and agents, and recipients of services are free from such discrimination and harassment.

CONSULTANT represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 USC § 12101 et seq.), the Fair Employment and Housing Act (Government Code § 12900 et seq.), and regulations and guidelines issued pursuant thereto.

CONSULTANT agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

CONSULTANT shall include this nondiscrimination provision in all subcontracts related to this Agreement and when applicable, give notice of these obligations to labor organizations with which they have Agreements.

### **31. CAPTIONS**

The captions of each paragraph in this Agreement are inserted as a matter of convenience and reference only, and in no way define, limit, or describe the scope or intent of this Agreement or in any way affect it.

### **32. SUBCONTRACTS - ASSIGNMENT**

CONSULTANT shall not subcontract or assign this Agreement, or any part thereof, or interest therein, directly or indirectly, voluntarily or involuntarily, to any person without obtaining the prior written consent by COUNTY. CONSULTANT remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. CONSULTANT shall be held responsible by COUNTY for the performance of any subcontractor whether approved by COUNTY or not.

CONSULTANT hereby assigns to the COUNTY all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC Sec. 15) or under the Cartwright Act (Chapter 2 commencing with Section 16700, Part 2 of Division 7 of the

Business and Professions Code), arising from the purchase of goods, materials, or services by the CONSULTANT for sale to the COUNTY pursuant to this Agreement.

**33. SEVERABILITY**

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portion of them, will not be affected. Compensation due to CONSULTANT from the COUNTY may, however, be adjusted in proportion to the benefit received despite the removal of the effected provision.

**34. DUPLICATE COUNTERPARTS**

This Agreement is executed in counterparts, each of which shall be deemed a duplicate original. The Agreement shall be deemed executed when it has been signed by both parties.

**35. DEATH AND DISABILITY**

It is understood and agreed that because this Agreement is entered into for the unique personal services of CONSULTANT, in the event of his/her death, this Agreement is forthwith terminated. In the event CONSULTANT is disabled and permanently or for an extended period, COUNTY may, at its option, terminate this Agreement forthwith. Permanent or extended disability means that CONSULTANT is unable to perform the services of this Agreement for such a period of time that it would cause a detriment to the COUNTY as determined by the reasonable judgment of the COUNTY.

COUNTY OF MERCED

CONSULTANT

By: \_\_\_\_\_  
Jerry O'Banion  
Chairman, Board of Supervisors

By: \_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Dated

APPROVED AS TO LEGAL FORM  
MERCED COUNTY COUNSEL

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

\_\_\_\_\_  
Dated