

**CONTRACT FOR SPECIAL SERVICES BY INDEPENDENT CONTRACTOR  
FEHR & PEERS FOR PREPARATION OF THE TRAFFIC ANALYSIS FOR THE AVILA  
POINT (AVILA TANK FARM) ENVIRONMENTAL IMPACT REPORT  
LRP2012-00003 & DRC2012-00048**

THIS CONTRACT is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California [hereafter "County"], through its Environmental Coordinator/ Planning Director [hereafter "Coordinator/Director"] and Fehr and Peers, a California Corporation [hereafter "Consultant"].

**WITNESSETH:**

WHEREAS, the County has authorized the preparation of an Environmental Impact Report for the project proposed by Chevron and identified as Avila Point, ED12-129 (hereinafter referred to as "Avila Point Project"), which lies in the County of San Luis Obispo, and is more precisely located on the plat attached hereto as Exhibit "A"; and

WHEREAS, the County shall maintain high quality standards in the application of environmental laws in the County of San Luis Obispo; and

WHEREAS, the project requires an unbiased traffic analysis for the Environmental Impact Report [hereafter "EIR"], which is prepared in accordance with the California Environmental Quality Act, Public Resources Code, sections 21000 et seq. [hereafter "CEQA"], the State CEQA Guidelines, California Code of Regulations, title 14, section 15000 et seq. [hereafter "Guidelines"], and the County of San Luis Obispo Environmental Quality Act Guidelines [hereafter "Guidelines"], and that reflects the independent judgment of the County; and

WHEREAS, it is understood that the Consultant shall be the independent contractor of the County to prepare the traffic analysis and technical data for the traffic and circulation portion of the EIR which is to be completed by Aspen Environmental Inc.

NOW, THEREFORE, in consideration of the covenants, conditions, agreements and stipulations set forth herein, the parties agree as follows:

## **I. PREPARING THE TRAFFIC ANALYSIS**

### **A. DUTIES OF THE CONSULTANT.**

1. It is a fundamental requirement that this traffic analysis be prepared by an unbiased Consultant.

2. To further protect the unbiased requirement, the Consultant agrees that the duties described in this Contract shall be the only work Consultant performs on the Avila Point Project, unless the Consultant obtains prior written consent from the Coordinator/ Director.

3. The Consultant shall make the field exploration, research, tests and analysis necessary for the EIR consultant (Aspen) to complete the traffic and circulation portion of the EIR which fulfills the requirements of the EIR content required by CEQA, the Guidelines, and the provisions set forth in Consultant's Scope of Work, [hereafter "scope of work" or Exhibit B]. Exhibit B is attached hereto and incorporated by reference at this point except that the information as to cost and time is attached for informational purposes only.

4. Some factors could severely inhibit or prohibit a proposed project. An objective of conducting an environmental impact study is to identify these factors as soon as possible in order to make a determination regarding the feasibility of whether to continue with the EIR or the project. While conducting the traffic analysis, the Consultant shall diligently watch for and analyze those factors which could inhibit or prohibit the project. If such factors are identified, the Consultant shall immediately notify the Coordinator. The Coordinator will then advise the Consultant in writing on whether to stop work or continue with the traffic analysis.

5. The Consultant shall submit a draft traffic analysis and a final analysis for the purposes of inclusion in the project EIR (to be completed under separate contract by Aspen Environmental).

### **B. DUTIES OF THE COUNTY.**

1. The Coordinator/ Director will be responsible for ensuring that the traffic analysis reflects the independent judgment of the County as the Lead Agency as required by Section 15084(e) of the Guidelines.

2. The Coordinator/ Director will make any documents, relevant to the proposed project, in the possession of Coordinator/ Director, available to the Consultant.

3. It is understood that repeated revisions to the traffic analysis are costly for the Consultant and the Coordinator/ Director. Therefore the Coordinator/ Director shall make every effort to reduce the number of iterations of the traffic analysis to a minimum by diligently reviewing the draft submittal information from the Consultant.

4. Coordinator/ Director will advise the Consultant whether to continue with the traffic analysis or stop work when situations are identified, such as environmental, economic, technical, legal or other factors, which could inhibit or prohibit the project.

5. The County will provide for payment to the Consultant as provided by the terms of this Contract. The Coordinator/ Director will expeditiously review all work submitted by the Consultant in order to assure prompt payment of invoices. At the request of the Consultant, the Coordinator/ Director will explain in writing any delay, not the result of the Consultant, that would prevent payment of the invoice within 30 days of receipt by the Coordinator/ Director.

### **C. PAYMENT.**

1. County's Maximum Cost of the Traffic Analysis for the Administrative Draft EIR. The Contract for the preparation of the traffic analysis (noted as Task 2 for the Administrative Draft EIR) is a lump sum Contract. It is not a time and materials Contract. The County will pay the Consultant a maximum amount of forty two thousand five hundred dollars (\$42,500). Two invoices in the amounts of \$889.00 and \$2,622.30 respectively have been paid to the Consultant already under the Consultant's contract with Aspen. The remaining funds available for completion of this contract total is \$38,989. The County will pay Consultant upon receipt of the final version of the traffic report after all administrative corrections or changes are completed to the draft report and analysis. The sums due under the timing of these staged payments are tied to products delivered by the Consultant to the Coordinator/ Director and approval of such products by the Coordinator/ Director.

2. Time of payment. At the request of the Coordinator/ Director, the Consultant shall submit itemized statements for work performed from the execution of the Contract to the date of the request. The County has the right to access and copy the records to verify all work performed on the Contract to date.

a. Consultant will be paid the amount in paragraph I.C.1. above, forty two thousand five hundred dollars (\$42,500) of which a total of thirty eight thousand nine hundred eighty nine (\$38,989) remains following payment of the invoices in the amount of \$889.00 and \$2,622.30 already paid under the existing Aspen contract, within thirty (30) days after the Coordinator/ Director receives a correct invoice, and receives and approves two (2) copies of the traffic analysis outlined in task 2 of Phase two of the scope of work.

3. Early Termination Payment. If the Contract is terminated prior to the completion of the final EIR for a reason other than breach by the Consultant, the County will pay Consultant for work performed on the Contract from execution to termination, but not to exceed the maximum amounts listed above plus an additional amount for work performed and expenses incurred on the work in progress. Payment for attendance at meetings and hearings, travel and per diem shall be allocated to the phase in which the travel occurred (which is outlined in the scope of work Exhibit B). If any phase is not completed and the Contract is terminated due to breach by the Consultant, the amount due Consultant shall be the maximum amount indicated in Section IV.I., as well as any amount owed to Consultant as of the dated of the termination under Sections II.B. below, less the amount required to hire and compensate a replacement Consultant to complete the traffic analysis.

4. Cost Containment. In no event is the Consultant authorized to incur additional costs beyond the maximum amounts in this Contract without prior written agreement signed by the County. Before incurring additional costs or providing additional services, Consultant must inform Coordinator/ Director, in writing, of the estimated additional costs. Without prior written approval signed by the County, the County shall not be liable for any amount over the amounts specified herein.

5. Early Payment. For flat fee projects with identified phases, and for good cause, and in the sole discretion of the County, the County may make such early payments during any phase without terminating this Contract. The Consultant shall preserve the work performed to date and minimize the need to repeat work on the current phase. Before receiving an early payment, the Consultant shall submit an itemized statement showing time and materials spent from execution to date, specifically identifying the work done on the phase in progress and the estimated amounts remaining to complete the phase in progress. In no event shall Consultant

be entitled early payment for a future phase. The Board of Supervisors delegates the authority to make early payments to the Coordinator/ Director provided the Coordinator/ Director retains sufficient funds to complete the phase in progress including costs to re-start a delayed phase. The County shall incur no liability for declining to make an early payment.

7. Invoicing. Each invoice submitted by Consultant to the County shall include at least the following details:

- a. Table showing all of the subtotals shown in Section IV below. In addition, additional columns to be added to show how much of each subtotal has been authorized for payment, how much is pending approval, and how much remains available;
- b. Each invoice shall clearly show which subcategory from Section IV payment is being; and
- c. Each invoice shall include sufficient supporting evidence to substantiate the request (e.g., labor, materials, and/or documents, etc.).

## **II. PROJECT MEETINGS AND PUBLIC HEARINGS**

This section of the Contract, Section II, "Project Meetings and Public Hearings," is an option to be exercised solely at the discretion of the Coordinator/ Director.

### **A. NUMBER OF MEETINGS AND HEARINGS.**

At the Coordinator/ Director's request, Consultant will send appropriate representatives to three (3) project meetings and two (2) public hearings.

### **B. PAYMENT CALCULATIONS.**

1. Attendance at project meetings. The Consultant shall be paid for the time spent by Consultant's representatives in preparing for and attending the project staff meetings. The Consultant shall submit an itemized billing for each meeting attended. For preparation and attendance at such meetings, Consultant's staff will be paid at the hourly rates as provided in Exhibit C. The total maximum for preparation, attendance and participation of all of Consultant's representatives in all project staff meetings, is eight thousand four hundred and eighty five dollars (\$8,485). This is in addition to the amount stated in paragraph I.C.1. above.

2. Attendance at hearings. The Consultant shall be paid for the time spent by Consultant's representatives in preparing for and attending the public hearings. The

Consultant shall submit an itemized billing for each public hearing attended. The Consultant shall be paid for preparation and attendance at such hearings, at the hourly rates as provided in Exhibit C). The total maximum for preparation, attendance and participation of all of Consultant's representatives in all (up to 2) public hearings on the project and appeal, if any, is eight thousand nine hundred and forty dollars (\$8,940). This is in addition to the amount stated in paragraphs I.C.1. and II.B.1. above.

**III. Delegation of County Signatory Authority for Minor Modifications.**

The Board of Supervisors delegates to the Coordinator/ Director the authority to sign amendments to this Contract that make reasonable modifications to the time performance or that increase the scope of work and provide additional compensation, provided that all amendments do not total more than 10% percent of the total lump sum amount stated in paragraph I.C.1 and II.B.1 and II.B.2 meetings and hearings, five thousand nine hundred and ninety three (\$5,993). Any amendment beyond that cumulative amount or an amendment pertaining to any performance other than increasing the scope of work, including but not limited to insurance, indemnity, property and other provisions in this Contract must be in writing and signed by the Board of Supervisors. These additional funds are intended to provide for flexibility needed to respond to changes generated in writing by the County; not by the Consultant. Any modification to the Contract within the scope of this paragraph need only be signed by the Consultant and the Coordinator/ Director; after approval as to form and legal effect by a Deputy County Counsel.

**IV. FINANCIAL SUMMARY**

The following summarizes the costs of the individual categories specified above:

I. PREPARING THE TRAFFIC ANALYSIS	\$42,500
II. PROJECT MEETINGS AND PUBLIC HEARINGS	\$17,425
III. Minor Modification/contingency (10%)	\$5,993 (includes I.C.1, II.B.1 and II.B.2)
Less Invoices T1 and T6 rounded to whole dollar	- \$3511.30

Task 1 (T1) invoice PAID 889.00 from Aspen Invoice

Task 6 (T6) invoice PAID 2,622.30 from Aspen Invoice

**TOTAL \$62,407**

**V. GENERAL CONDITIONS**

**A. INDEPENDENT CONTRACTOR.**

Consultant shall be deemed to be an independent contractor of County. Nothing in this Contract shall be construed as creating an employer-employee relationship, partnership or a joint venture relationship. Nothing in this Contract authorizes, or permits, the County to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject of this contract; provided always, however, that the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services.

**B. NO ELIGIBILITY FOR FRINGE BENEFITS.**

Consultant understands and agrees that its personnel are not, and will not be, eligible for membership in or any benefits from any County group plan for hospital, surgical, or medical insurance, or for membership in any County retirement program, or for paid vacation, paid sick leave, or other leave, with or without pay, or for any other benefit which accrues to a County employee.

**C. INDEMNIFICATION.**

To the fullest extent permitted by law, and in accordance with California Civil Code §2782.8, Consultant shall indemnify, defend, and hold harmless the County and its officers, agents, employees, and volunteers from and against all claims, demands, damages, liabilities, loss, costs, and expense (including attorney's fees and costs of litigation), of every nature arising out of the Agreement to the extent caused by the negligent performance or attempted performance or the provisions hereof, including any willful or negligent act or omission to act on the part of the Consultant or his agents or employees or independent Consultants. This indemnity will not extend to any claims or losses arising out of the negligence or willful misconduct of the County.

#### **D. INSURANCE.**

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

1. MINIMUM SCOPE AND LIMIT OF INSURANCE Coverage shall be at least as broad as:

i. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

ii. Automobile Liability: ISO Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

iii. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. If Consultant will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage shall also include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Consultant's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

iv. Professional Liability/Errors and Omissions: Insurance covering Consultant's liability arising from or related to this Contract, with limits of not less than \$1 million per claim and \$2 million aggregate. Further, Consultant understands and agrees it shall

maintain such coverage for a period of not less than three (3) years following this Agreement's expiration, termination or cancellation.

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

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

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

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

iii. Notice of Cancellation: Each insurance policy required above shall state that **coverage shall not be canceled, except after thirty (30) days' prior written notice** (10 days for non-payment) has been given to the County.

4. Failure to Maintain Insurance: Consultant's failure to maintain or to provide acceptable evidence that it maintains the required insurance shall constitute a material breach of the Contract, upon which the County immediately may withhold payments due to Consultant, and/or suspend or terminate this Contract. The County, at its sole discretion, may obtain damages from Consultant resulting from said breach.

5. Waiver of Subrogation: Consultant hereby grants to County a waiver of any right to subrogation which any insurer of said Consultant may acquire against the County by

virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

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

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

8. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

ii. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work**

iii. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

9. Separation of Insureds: **All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.**

10. Verification of Coverage: Consultant shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to

provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Certificates and copies of any required endorsements shall be sent to:

Ellen Carroll, Environmental Coordinator  
Department of Planning and Building  
976 Osos St., Room 300  
San Luis Obispo, CA 93408-4020

11. Subconsultants: Consultant shall require and verify that all subconsultants maintain insurance meeting all the requirements stated herein.

12. Special Risks or Circumstances: County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

#### **E. WARRANTY OF CONSULTANT.**

Consultant, its officers and employees, and subconsultants will comply with all applicable federal or state laws while performing this Contract. Consultant warrants that it, and each of the personnel employed or otherwise retained by Consultant, will at all times be properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to. Consultant warrants that the persons performing the services for this Contract are specially trained, experienced, expert and competent to perform such special services of preparing the required traffic analysis for the EIR. Consultant warrants that the Consultant, its subconsultants and real persons working on this Contract have no conflict of interest with this project and will produce an independent, objective and unbiased work product.

Should there be any substitution of subconsultants or staff, Consultant will request approval from the County 10 days prior to any change. Approval by the County is required and shall be given in writing from the County to Consultant for any proposed change.

#### **F. NON-ASSIGNMENT OF CONTRACT.**

Inasmuch as this Contract is intended to secure the specialized services of the Consultant, Consultant shall not delegate its obligations under this Contract and shall not assign or otherwise transfer its rights under this Contract or any interest therein without the

prior written consent of County. Any such assignment, transfer, delegation, or subletting without the County's prior written consent shall be null and void.

**G. NONDISCRIMINATION.**

Consultant will not discriminate, in any manner forbidden by law, against any person employed to perform services under this Contract.

**H. TERMINATION OF CONTRACT FOR CONVENIENCE OF EITHER PARTY**

Either party may terminate this Contract at any time by giving to the other party 30 days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. In the event that Consultant terminates this Contract prior to completion of the Scope of Work, Consultant shall reimburse the County for any work not satisfactorily completed prior to the effective date of said termination.

**I. TERMINATION OF CONTRACT FOR CAUSE.**

If Consultant fails to perform Consultant's duties to the satisfaction of the County or if Consultant fails to fulfill in a timely and professional manner Consultant's obligations under this contract or if Consultant shall violate any of the terms or provisions of this Contract or if Consultant, Consultant's agents or employees fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the County, then County shall have the right to terminate this Contract effective immediately upon the County giving written notice thereof to Consultant. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. In the event that the County terminates this Contract prior to completion of the Scope of Work, Consultant shall reimburse the County for any work not satisfactorily completed prior to the effective date of said termination. If County's termination of Consultant for cause is defective for any reason, including but not limited to County's reliance on erroneous facts concerning Consultant's performance, or any defect in notice thereof, County's maximum liability shall not exceed the amount payable to Consultant under Section I.C above.

**J. ENTIRE AGREEMENT AND MODIFICATIONS.**

This Contract supersedes all previous contracts and constitutes the entire understanding of the parties hereto. Consultant shall be entitled to no other benefits than

those specified herein. No changes, amendments, or alterations shall be effective unless in writing and signed by both parties before the change or amendment occurs. Consultant specifically acknowledges that in entering into and executing this Contract, Consultant relies solely upon the provisions contained in this Contract and no others. The provisions of this Contract, and only those of this Contract, shall also apply to any and all work performed by Consultant in the Avila Point Project prior to the execution of this Agreement.

**K. APPLICABLE LAW AND FORUM SELECTION.**

This Contract has been executed and delivered in the State of California and covers services to be performed in California. The parties agree that the validity, enforceability, and interpretation of the Contract or any of its provisions shall be determined and governed by the laws of the State of California without respect to the conflict of laws. All duties and obligations of the parties created hereunder are performable in the County of San Luis Obispo, State of California, and such a state court in such county shall be the forum for any action or proceeding that may be brought, or arise out of, this Contract.

**L. SEVERABILITY.**

The invalidity of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract.

**M. RECORDS.**

Pursuant to California Government Code § 10532, every County contract involving the expenditure of more than ten thousand dollars (\$10,000.00) in public funds is subject to examination and audit of the Auditor General for a period of three years after final payment under the Contract. Consultant shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Contract. The foregoing constitute "records" for the purposes of this paragraph. Consultant shall maintain and preserve, until three years after termination of this Contract, and permit the State of California or any of its duly authorized representatives, including the Comptroller General of the United States, to have access to and to examine and audit any pertinent books, documents, papers, and records of Consultant related to this Contract. Consultant and County shall ensure the confidentiality of any records that are required by law to be so maintained.

**N. COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS.**

Pursuant to Government Code section 7550, if the total cost of this Contract is over five thousand dollars (\$5,000.00), the Consultant shall include in all final documents and in all written reports submitted a written summary of costs, which shall set forth the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such document or written report. The Contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report.

When multiple documents or written reports are the subject or product of contracts, the disclosure section may also contain a statement indicating that the total Contract amount represents compensation for multiple documents or written reports.

**O. NOTICES.**

Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to the following address as appropriate:

**1. To the Environmental**

**Coordinator/Director:**

Ryan Hostetter  
County of San Luis Obispo  
Co. Planning & Bldg. Department  
976 Osos Street, Room 200  
San Luis Obispo, CA 93408

**2. To the Board of Supervisors:**

Board of Supervisors  
County Government Center  
1055 Monterey Street, Room D430  
San Luis Obispo, CA 93408

**3. To the Consultant:**

**Principal-in-Charge:**

John Muggridge  
Fehr & Peers  
600 Wilshire Boulevard, Suite 1050  
Los Angeles, CA 90017

**P. COPYRIGHT.**

Any reports, maps, documents or other materials produced in whole or part by the Consultant or any subconsultant or person responsible to the Consultant under this Contract

shall not be subject to an application for copyright by or on behalf of Consultant, subconsultant or person responsible to Consultant during the performance of this Contract.

**Q. CONFIDENTIALITY.**

No reports, maps, information, documents, or any other materials given to or prepared by Consultant under this Contract which County requests in writing to be kept confidential, shall be made available to any individual or organization by Consultant without the prior written approval of County, except pursuant to an order of a court having competent jurisdiction. However, Consultant shall be free to disclose such data as is publicly available.

**R. EQUIPMENT AND SUPPLIES.**

Consultant will provide all necessary equipment and supplies in order to carry out the terms of this Contract.

**S. EMPLOYMENT STATUS.**

Consultant shall, during the entire term of this Contract, be construed as an independent Consultant, and nothing in this Contract is intended nor shall be construed to create an employer-employee relationship or a joint venture relationship between the County and Consultant or between the County any of Consultant's agents, employees, or subconsultants.

**T. ACCESS TO RECORDS AND FINANCIAL DATA.**

At the request of the Board of Supervisors, the Coordinator, the County Planning Director, the County Counsel, the County Administrator or the County Auditor, the County's agents or employees have a right to access any recorded data, preserved in any form, including but not limited to materials generated for this project or existing information compiled for this project and any financial documents pertaining to this project, wherever located during reasonable hours for up to three years after project approval. After three years, if the Consultant wants to dispose of the background records the Consultant shall give the County the option of taking possession of the records. The County's right to access includes the right to make copies of such information.

**U. PRIORITY OF INCONSISTENT CONTRACT TERMS AND CONDITIONS.**

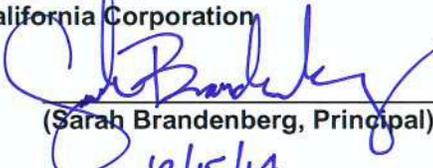
To the extent that any terms or conditions set forth in Exhibit B, or past business practices between Consultant and County or Coordinator/ Director differ from the terms and

conditions of this Contract, the terms and conditions expressed in the typed body of this Contract, without reference to Exhibit B, are controlling.

**V. EFFECT OF WAIVER.**

County's waiver or breach of any one term, covenant or other provision of this Contract shall not be a waiver of a subsequent breach of the same term, covenant or provision of this Contract or of the breach of any other term, covenant or provision of this Contract.

**CONSULTANT**

Fehr & Peers  
A California Corporation  
By:   
(Sarah Brandenburg, Principal)  
Date: 12/15/14  
By:   
(Tom Gaul, Principal)  
Date: 12/16/14

**COUNTY OF SAN LUIS OBISPO**

By: \_\_\_\_\_  
Chairman of the Board of Supervisors

**ATTEST:**

\_\_\_\_\_  
Clerk of the Board of Supervisors

\_\_\_\_\_  
Date

**APPROVED AS TO FORM AND LEGAL EFFECT:**

**RITA L. NEAL**  
County Counsel

By:   
Deputy County Counsel

Dated: 12/23/14

**Attachments**

- Exhibit A – Location Map
- Exhibit B – Consultant Work Scope
- Exhibit C – Hourly Rates