

## AGREEMENT FOR SERVICES #3218

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**THIS AGREEMENT** made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Architectural Nexus, Inc., a Utah Corporation duly qualified to conduct business in the State of California, whose principal place of business is 2505 East Parleys Way, Salt Lake City, Utah 84109 and whose local place of business is 1990 Third Street, Suite 500, Sacramento, California 95811 (hereinafter referred to as "Contractor").

### RECITALS

**WHEREAS**, County has determined that it is necessary to obtain a Contractor to assist its Chief Administrative Office, Facilities Management Division with architectural services related to the Health and Human Services Agency South Lake Tahoe Campus Project; and

**WHEREAS**, Contractor has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

**WHEREAS**, County has determined that the provision of these services provided by Contractor is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Contractors as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000.

**NOW, THEREFORE**, County and Contractor mutually agree as follows:

### ARTICLE I

**Scope of Services:** Contractor agrees to furnish personnel, subcontractors, materials, equipment and services necessary to develop design documents related to the Health and Human Services Agency South Lake Tahoe Campus Project. Services shall include, but not be limited to, performing the services, tasks and work outlined below:

**Phase 1 – Project Initiation - El Dorado Center and the Post Office:** Establish overall project schedule and work plan to achieve issuance of Design/Build (3368 Lake Tahoe Boulevard) and Design/Bid/Build RFQ/RFP (3368 Sandy Way) by project goal

dates; review available project documentation; identify County goals, objectives and expectations; finalize list of program meetings to be held with building users and stakeholder's and set tentative dates to facilitate efficient Program Meetings. Review the California Environmental Quality Act (CEQA) status and any mitigation criteria, review County site surveys, Geotechnical Report and Topographical Surveys, utility information and due diligence reports.

**Phase 2 – Assessment Validation and Program Completion - El Dorado Center and the Post Office:** Document spatial requirements and relationships for use in preparation of bridging documents as well as to guide and govern potential changes by the Design-Build team. Develop questionnaires and agendas for specific meetings with HHSA divisions to be distributed prior to scheduled meetings. Draft program (including narratives, space list relationship diagrams, and updated staff projections). The intent of this Phase is to establish programing goals. Perform programing interviews with all HHSA department heads perform preliminary Code/Regulatory Agency review(s). Meet with utility company to validate due diligence assumptions. Work with Facilities Project Management to determine sustainable maintenance and energy design goals.

**Phase 3 A) – Conceptual/Schematic Design - El Dorado Center:** The general goal of this phase is to further develop and define the interior and exterior space plans and relationships to incorporate all the Program requirements.

- Architecture: Develop site plans and interior space plans based on updated program requirements. Develop performance specifications for office, specialized space, security and essential service requirements. Develop preliminary finish schedules. Develop any necessary facility hardening design parameters. Confirm that the project is adhering to all Tahoe Regional Planning Agency (TRPA) guidelines.
  - Structural: Develop critical clear span and bay spacing along with vertical height requirements. Develop design parameters for specialized systems and equipment design constraints.
  - Mechanical, Electrical, Plumbing, Fire Sprinklers and Fire Alarm: Define and set system service parameters for basic systems, specialized systems. Establish energy design goals and performance criteria.
  - Specialized Equipment: Provide design performance criteria to integrate the facility with specialized equipment including but not limited to: Security equipment, cameras and access controls.
  - Landscape: Develop a conceptual landscaping and irrigation design narrative.
  - Civil / Site Design: Develop design parameters for site design that include CEQA / TRPA / ADA approval constraints, drainage, utilities, traffic, acoustical, site balance and access.
  - All designs comply with Americans with Disabilities Act (ADA) design standards and ADA Accessibility Guidelines (ADAAG).
  - Signage: Provide a signage narrative.
  - Develop a detailed schedule and cost estimate for final approval.
- Assemble a Schematic Design level documentation package sufficient to describe:

Project size, Functional Priorities, Aesthetics: finishes, materials, colors, time critical construction completion requirements, sustainable features, cost effectiveness, level(s) of quality desired, Security, Audio/Visual, Technology Systems.

**Phase 3 B) – Design Development/Construction Drawings – Post Office:** The general goal of this phase is to further develop and finalize the interior and exterior space plans incorporating all program requirements. Submit a complete set of construction documents, construction budget and a project schedule for final approval.

- Architecture: Develop/finalize tenant improvement plans based on updated program requirements. Develop/finalize performance specifications for office, specialized space, security and essential service requirements. Develop preliminary/final finish schedules. Develop any necessary facility hardening design parameters.
- Structural: Investigate and make recommendations if it is determined that the building has structural deficiencies.
- Mechanical, Electrical, Plumbing and Fire Alarm: Investigate the existing system that is currently in place to confirm that it will meet all codes and services required for the new operation. Make recommendations for corrective action if needed.
- Specialized Equipment: Provide design performance criteria to integrate the facility with specialized equipment including but not limited to: security equipment including access controls.
- Landscape: Confirm that the existing landscaping conforms to the general plan and regulations per all governing agencies. Make recommendations for corrective action if needed.
- Civil / Site Design / ADA: Confirm that the existing site conforms to the general plan and regulations per all governing agencies. Make recommendations for corrective action if needed.
- All designs comply with Americans with Disabilities Act (ADA) design standards and ADA Accessibility Guidelines (ADAAG).
- Signage: Provide a signage narrative.
- Develop a detailed schedule and cost estimate for final approval.

Finalize the construction documents to include but not limited to: project size, functional priorities, aesthetics, finishes, materials, colors, time critical construction completion requirements, sustainable features, cost effectiveness, level(s) of quality desired, security, audio/visual, technology systems. Final construction documents to be completed for all necessary permitting at the County of El Dorado Building Department. Respond to RFI's, review / approve submittals, shop drawings, product data, samples, logs, PCO's, project close out, O&M manuals / warranties and start-up. Generate any necessary construction change directives, attend on-site meetings as necessary, respond to meeting minutes, create / approve punch list, prepare and submit final as-builts / record drawings to county. Provide two (2) different color boards depicting all interior finish options.

**Phase 4 – Bridging Documents - El Dorado Center:** General goal is to refine Phase 3 documents to create bridging documents suitable for County to obtain Design/Build

Proposals through a public agency procurement process. Documents need to allow latitude for the Design/Build team to find ways to save time and money, but should clearly state requirements that are essential to the owner. Clarify design intent to become basis of design for prospective Design/Build teams. Confirm project will meet budgetary, programmatic, and sustainability goals. Final code check of approved Schematic Design. Develop/produce final bridging documents including performance specifications, design narratives for each discipline, describing functional priorities, quality levels, aesthetic requirements, design criteria, basic design loads, and requirements to meet applicable building codes. Exterior/Interior finish materials and color selections. Prepare two (2) presentation boards. Deliver digital/electronic files drawings and specifications to County.

**Phase 5 – Design-Build Team Prequalification and Team Selection - El Dorado**

**Center:** General goal being to lend assistance to County in pre-qualifying prospective Design/Build (D/B) teams to compete for the project in an RFQ/RFP fashion, and in selecting the most qualified D/B team, all services/efforts provided in concert with County Facilities Staff or agent. Review/comment on RFP prepared by County. Assist in reviewing qualifications. Assist in developing best value criteria and scoring criteria. Attend pre-bid conference/presentation. Attend one half-day work sessions with each bidder (limited to four meetings). Respond to Requests for Design Clarification and/or modifications. Consult with County concerning the determination or acceptability of D/B proposed substitute materials and systems proposed by D/B bidders. Consult with County concerning the determination or acceptability of D/B proposed changes in design or approach. Submit clarifications as appropriate. Attend bid opening / assist in evaluation of bids. Review bids versus the weighted factors and develop a DCC team response for County designated selection team. Respond to questions of County selection team as appropriate. DCC shall remain independent as outlined in County Conflict of Interest policy pertaining to design-build work.

**Phase 6 – Construction Document Review / Design Intent Review - El Dorado**

**Center:** General goal being to consult or support County by reviewing design-build designs and construction documents to assure compliance with bridging documents design intent. During the design phase, meet approximately monthly with the design-builder's architect and engineers on a discipline by discipline basis for 'over-the-shoulder' reviews. Act as liaison between County, authorities with jurisdiction, the design-builder's architect and engineers, and the stakeholders to assure design intent compliance. Meet monthly with County to report findings, review comments, etc. Review D/B team's 50% and 100% design submittals, make recommendations as appropriate. Provide peer review of design-builder's MEP and special systems design and calculations. Review RFI's for Design Intent.

**Phase 7 – Design-Build Construction - El Dorado Center:** As requested by County, the DCC's scope of services for the final Phase 7 is to be available to respond to phone calls and questions regarding design intent advice, to comment upon shop drawings, substitution requests and other submittals for conformance to the requirements of the Bridging Documents, provide limited Site Visits, provide Substantial / Final Completion

assistance and verification services.

**Phase 8 – Facility Commissioning and Project Closeout - El Dorado Center and the**

**Post Office:** The DCC will provide a final facility review and oversight of project commissioning efforts and documentation to ensure design intent was implemented.

**Phase 9 – Furniture Fixtures and Equipment (FF&E) - El Dorado Center and the**

**Post Office:** The DCC will provide preliminary support and oversight of all FF&E design and selection at the El Dorado Center. The DCC will provide support and oversight of all FF&E design, selection and installation at the Post Office.

**Deliverables:** acceptable formats shall include:

- a. CADD drawings in AutoCAD (version).
- b. Word documents in Microsoft Word.
- c. Spreadsheets in Microsoft Excel.
- d. Schedules in Microsoft Project or Primavera.
- e. Databases as necessary for compiling, storing and accessing the Project records in a commonly available format.
- f. Bluebeam
- g. Revit and BIM

**ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire three (3) years from the date thereof.

**ARTICLE III**

**Compensation for Services:** For services provided herein, including all deliverables, County agrees to pay Contractor monthly in arrears based upon percentage of completion of those line items below noted as “Fixed” Fee Type. For Allowance line items and Contingency Services, the Contract Administrator will issue a separate written Work Order to Contractor for each line item assignment. Contractor shall not commence Allowance or Contingency Services work until receiving a written Work Order. No payment will be made for any work performed prior to the issuance of the written Work Order. Payment shall be made within forty five (45) days following County receipt and approval of itemized invoices detailing services rendered.

Contractor may adjust line item totals with Contract Administrator approval so long as the not to exceed amount is not exceeded.

The total amount of this Agreement, inclusive of all costs and expenses, shall not exceed \$496,450.

PHASE	DESCRIPTION	FEE TYPE	TOTAL
1A	Project Initiation – El Dorado Center (EDC)	Fixed	\$14,860
1B	Project Initiation – Post Office Building (PO)	Fixed	\$4,990
2A	Assessment Validation and Program Completion – EDC	Fixed	\$18,000
2B	Assessment Validation and Program Completion – PO	Fixed	\$4,500
3A	Conceptual/Schematic Design – EDC	Fixed	\$83,600
3B	Design Development/Construction Drawings – PO	Fixed	\$64,000
4	Bridging Documents – EDC	Fixed	\$48,500
5	Prequalification – Team Selection – EDC	Fixed	\$24,000
6	CD Review – Design Intent Review – EDC	Allowance – Hourly	\$22,000 / \$180/hr
7	Construction – EDC	Allowance – Hourly	\$34,000 / \$160/hr
8A	Commissioning – Closeout – EDC	Allowance – Hourly	\$19,000 / \$180/hr
8B	Commissioning – Closeout – PO	Allowance – Hourly	\$15,000 / \$180/hr
9	FF&E Support – EDC	Allowance – Hourly	\$8,200 / \$150/hr
9	FF&E Support – PO	Allowance – Hourly	\$3,400 / \$150/hr
ALT – 1A	FF&E – Design – EDC Allowance	Allowance – Hourly	\$38,000 / \$150/hr
ALT – 1B	FF&E – Design – PO	Allowance – Hourly	\$23,000 / \$150/hr
ALT – 2A	AV Design / Engineering Services – EDC	Allowance – Hourly	\$13,800 / \$200/hr
ALT – 2B	AV Design / Engineering Services – PO	Allowance – Hourly	\$6,600 / \$200/hr
ALT – 3	Structural Services – PO	Allowance – Hourly	\$3,400 / \$200/hr
CS	Contingency Services	Hourly per Attachment “A” marked “Fee Schedule”	\$47,600/per Exhibit A
<b>TOTAL NOT TO EXCEED</b>			<b>\$496,450.00</b>

**Reimbursable expenses, including subcontractors,  
will be billed at actual cost plus a service charge of 10%.**

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces and on any enclosures or backup documentation. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado  
Facilities Management  
3000 Fairlane Court, Suite One  
Placerville, California 95667  
Attn.: Russell Fackrell, Facilities Manager

or to such other location as County directs.

In the event that Contractor fails to deliver the documents or other deliverables required by the individual Work Orders issued pursuant to this Agreement, County at its sole option may delay the payment for the period of time of the delay, cease all payments until such time as the deliverables are received, or proceed as set forth herein below in **Article XVI – Default, Termination, and Cancellation**.

#### **ARTICLE IV**

**Taxes:** Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

#### **ARTICLE V**

**Architectural License:** The Contractor hereby warrants and represents that Contractor is licensed to practice Architectural work as required by the State of California. The Contractor agrees to provide professional services that reflect the standards of professional care. Contractor also hereby represents and warrants that Contractor and any of its subcontractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

#### **ARTICLE VI**

**Ownership of Rights:** County and Contractor hereby expressly agree that all plans, details, and calculations produced by Contractor, its agents, representatives, employees, or sub-contractors, shall be considered a "work made for hire" within the meaning of 17 USC Sec. 101. County shall have sole ownership of all rights, for all purposes, in each completed work, and unused portions thereof, including the copyrights.

## **ARTICLE VII**

**HIPAA Compliance:** All data, together with any knowledge otherwise acquired by Contractor during the performance of services provided pursuant to this Agreement, shall be treated by Contractor and Contractor's staff as confidential information. Contractor shall not disclose or use, directly or indirectly, at any time, any such confidential information. If the Contractor receives any individually identifiable health information ("Protected Health Information" or "PHI"), the Contractor shall maintain the security and confidentiality of such PHI as required by applicable laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder.

## **ARTICLE VIII**

**Confidentiality of Data:** All data and information relative to the County operations, which is designated confidential by the County and made available to the Contractor in order to carry out this Agreement shall be protected by the Contractor from unauthorized use and disclosure.

Permission, granted by the County, to disclose information on one occasion or at public hearing held by the County relating to the Agreement shall not authorize the Contractor to further disclose such information or disseminate the same on any other occasions.

The Contractor shall not comment publicly to the press or any media regarding this Agreement or the County's actions on the same, except to the County's staff, Contractor's own personnel involved in the performance of this Agreement, at public hearings or in response to questions from the Board of Supervisors.

The Contractor shall not issue any news release or public relations item of any nature whatsoever regarding services performed or to be performed under this Agreement without prior review of the contents thereof by the County and receipt of the County's written permission.

## **ARTICLE IX**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

## **ARTICLE X**

**Contractor to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Contractor shall act as Contractor only to County and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Contractor's responsibilities to County during term hereof.



## **ARTICLE XI**

**Assignment and Delegation:** Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

By appropriate agreement, Contractor shall require each subcontractors, to the extent of the work performed by each subcontractors, to be bound to Contractor by the terms of this Agreement, and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this Agreement, assumes toward the County.

## **ARTICLE XII**

**Independent Contractor/Liability:** Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

## **ARTICLE XIII**

**Audit by California State Auditor:** Contractor acknowledges that if total compensation under this agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code §8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

## **ARTICLE XIV**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

## **ARTICLE XV**

### **Default, Termination, and Cancellation:**

- A. Default: Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. Bankruptcy: This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. Ceasing Performance: County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total

amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

#### **ARTICLE XVI**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

Notices to County shall be addressed as follows:

County of El Dorado  
Facilities Management  
3000 Fairlane Court, Suite One  
Placerville, California 95667  
Attn.: Russell Fackrell, Facilities Manager

or to such other location as the County directs.

with a carbon copy to

COUNTY OF EL DORADO  
Chief Administrative Office  
Procurement and Contracts Division  
360 Fair Lane  
Placerville, CA 95667  
ATTN: Purchasing Agent

Notices to Contractor shall be addressed as follows:

ARCHITECTURAL NEXUS, INC.  
1990 Third Street, Suite 500  
Sacramento, CA 95811  
ATTN: Charles D. Downs, Vice President and Sr. Principal

or to such other location as the Contractor directs.

#### **ARTICLE XVII**

**Change of Address:** In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing pursuant to the provisions contained in this Agreement under the Article titled "Notice to Parties". Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

## **ARTICLE XVIII**

**Indemnity:** To the fullest extent allowed by law, Contractor shall defend, indemnify, and hold harmless the County and its officers, agents, employees and representatives from and against any and all claims, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of Contractor includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

## **ARTICLE XIX**

**Insurance:** Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.
- D. In the event Contractor is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30)

days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

- H. The certificate of insurance must include the following provisions stating that:
1. The insurer will not cancel the insured's coverage without prior written notice to County, and;
  2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Contractor'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 in excess of the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

## **ARTICLE XX**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

## **ARTICLE XXI**

**Interest of Contractor:** Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

## **ARTICLE XXII**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Contractor attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation".

## **ARTICLE XXIII**

### **Nondiscrimination:**

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder

(California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.

- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

#### **ARTICLE XXIV**

**California Residency (Form 590):** If Contractor is a California resident, Contractor must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The Contractor will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

#### **ARTICLE XXV**

**Nonresident Withholding:** If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

#### **ARTICLE XXVI**

**Taxpayer Identification Number (Form W-9):** All independent Contractors or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

#### **ARTICLE XXVII**

**County Business License:** It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

### **ARTICLE XXIII**

**Licenses:** Contractor hereby represents and warrants that Contractor and any of its subcontractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

### **ARTICLE XXI**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Russell Fackrell, Facilities Manager, Chief Administrative Office, or successor.

### **ARTICLE XXX**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

### **ARTICLE XXXI**

**Partial Invalidity:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

### **ARTICLE XXXII**

**Venue:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

### **ARTICLE XXXIII**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this agreement.

### **ARTICLE XXXIV**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

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DRAFT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

**-- COUNTY OF EL DORADO --**

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Purchasing Agent  
Chief Administrative Office  
"County"

**-- CONTRACTOR --**

**ARCHITECTURAL NEXUS, INC.**  
A Utah Corporation

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Charles D. Downs, AIA #C9717  
Senior Principal/Vice President  
"Contractor"

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Corporate Secretary

## Exhibit "A"

### Fee Schedule

Position	Rate
Sr. Principal Architect	\$240.00
Sr. Principal Medical Planner	\$240.00
Principal Medical Planner	\$210.00
Principal Architect	\$210.00
Principal Interior Designer	\$170.00
Sr. Project Manager	\$150.00
Project Architect	\$145.00
Medical Planner	\$150.00
Sr. Interior Designer	\$130.00
Sr. Graphic Designer	\$120.00
Project Manager	\$115.00
Landscape Architect	\$115.00
Job Captain	\$110.00
Site Designer	\$95.00
Interior Designer	\$95.00
Graphic Designer	\$95.00
Design Professional	\$95.00
Intern Architect	\$90.00
Admin Assistant	\$70.00

**Contractor may update rates once annually per year upon Contract Administrator approval.**