

**SECOND AMENDMENT  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE COUNTY OF SANTA CLARA  
AND  
RRM DESIGN GROUP  
FOR  
COMPREHENSIVE PLANNING CONSULTANT SERVICES**

This Second Amendment is entered into by and between the County of Santa Clara, a political subdivision of the State of California ("County" or "Owner"), and **RRM Design Group** ("Consultant"), a California corporation with its principal place of business located at **3765 South Higuera Street, Suite 102, San Luis Obispo, CA 93401**, and amends the Professional Services Agreement ("PSA") entered into by and between the parties on October 19, 2021 for comprehensive planning consultant services. County and Consultant are each a "Party" and collectively "Parties" to this Second Amendment.

**RECITALS**

**WHEREAS**, the PSA was previously amended ("First Amendment") on July 19, 2023, to update Consultant's Hourly Rates, and Sub-consultant Hourly Rates in accordance with the terms of PSA Part 11.01, following an industry rates survey.

**WHEREAS**, Owner and Consultant wish to amend Section 2.02 Maximum Compensation Limit (MCL) in order to complete projects within the scope of this PSA, including projects that are under a project performance deadline for awarded grant funds and risk losing those funds absent this Second Amendment; and

**WHEREAS**, Owner wishes to include a new default term regarding compliance with California Government Code section 84308 (the "Levine Act").

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, **OWNER AND CONSULTANT** agree to the foregoing and as follows:

1. **Amendments.**

- a. PSA Section 2.02 (Maximum Compensation) is deleted in its entirety and replaced with the following:

**2.02 Maximum Compensation Limit (MCL)**

- A. The sum of this PSA shall not exceed THREE MILLION DOLLARS AND NO CENTS (\$3,000,000.00) "Maximum Compensation Limit." If Consultant performs services or incurs expenses beyond this Maximum Compensation Limit, Consultant does so at Consultant's sole liability, cost, risk and expense. The MCL includes payment for all authorized Services, and any approved reimbursable expenses. Total payment by County will not exceed the MCL specified in this Agreement and Consultant is fully responsible for providing all Services and Deliverables required under a PA within the specified MCL.



- B. Owner is not obligated to issue any Project Agreement (“PA”) and without the issuance of a PA by Owner and the completion of all work in accordance with said PA, no compensation is owed or owing to Consultant under this PSA. Each Project Agreement will specify its own maximum compensation limit which cannot and shall not exceed, together with the maximum compensation limits for all other PAs issued, the MCL specified in this PSA. If the amount of compensation authorized under any PA, in total with that of all other PAs issued, exceeds the MCL stated in this PSA, then Consultant shall be solely responsible and liable for such excess costs and expenses and Owner shall not reimburse Consultant for such amounts. Nothing stated herein or in any PA shall authorize or approve an increase in the MCL or in the compensation limit specified in any PA. Consultant is fully responsible for not exceeding these limits and solely assumes and accepts all liability, cost, and expense for exceeding these limits.

- b. An additional subsection is added to PSA Section 13.13 (Conflict of Interest) as follows:

**F. LEVINE ACT COMPLIANCE.** Contractor will comply, and will ensure that its agents (as that term is defined under 2 Cal. Code Regs. § 18438.3(a)) and its subcontractors identified in Contractor’s proposal responding to a County solicitation and/or identified in this Agreement (“Subcontractors”) comply, with California Government Code section 84308 (“Levine Act”) and the applicable regulations of the Fair Political Practices Commission concerning campaign disclosure (2 California Code of Regulations sections 18438.1 – 18438.8), which (1) require a party to a proceeding involving a contract to disclose on the record of the proceeding any contribution, as defined by Government Code section 84308(a)(6), of more than \$250 that the party or their agent has made within the prior 12 months, and (2) prohibit a party to a proceeding involving a contract from making a contribution, as defined by Government Code section 84308(a)(6), of more than \$250 to any County officer during the proceeding and for 12 months following the final decision in the proceeding. Contractor agrees to submit any disclosures required to be made under the Levine Act at the Board of Supervisors website at <http://www.sccgov.org/levineact>, and Contractor shall require Subcontractors to do the same. If this Agreement is to be considered or voted upon by the County’s Board of Supervisors, Contractor shall complete the Levine Act Contractor Form: Identification of Subcontractors and Agents, and if applicable, shall ensure that any Subcontractor completes the Levine Act Subcontractor Form: Identification of Agents, and Contractor must submit all such forms to the County as a prerequisite to execution of the Agreement.

2. **Definitions:** Capitalized terms used in this Second Amendment without definition shall have the same meaning ascribed to such terms in the PSA.

3. **Entire Agreement:** Except as modified by this Second Amendment, all other terms, conditions, and stipulations of the PSA remain in full force and effect. The PSA, as amended by this Second Amendment, constitutes the full and complete agreement and understanding by and between the Parties relative to the subject matter of the PSA and this Second Amendment and shall supersede all prior communications, representations, and understandings or agreements, if any, whether oral or written, concerning the same subject matter and may not be modified or amended in whole or in part, except by a written instrument executed by all Parties hereto. Any prior or contemporaneous oral or

written representations relating to the same subject matter is hereby revoked and extinguished by the amended PSA, as amended by this Second Amendment.

4. **Counterparts - Electronic/Digital Signatures:** This Second Amendment, may be executed in any number of counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original provided all of the Parties have fully executed this Second Amendment. Unless otherwise prohibited by law or County policy and provided all Parties have first executed the Second Amendment, the Parties agree and intend that an electronic copy of a signed Second Amendment, or an electronically signed Second Amendment, has the same force and legal effect as if the Second Amendment had been executed with an original ink signature. The term "electronic copy of a signed Second Amendment" refers to a transmission of a copy of an original ink-signed Second Amendment by facsimile, electronic mail (email), or other electronic or digital means in a portable document format. The term "electronically signed Second Amendment" means a Second Amendment that is fully executed by all Parties each applying an electronic signature. An "electronic signature" means an electronic or digital sound, symbol, or process attached to or logically associated with an electronic or digital record (e.g., DocuSign) and executed or adopted by a person with the intent to sign the electronic record." The Parties each represent, warrant, and agree that the signatures, whether an ink-signed original or electronically signed Second Amendment, by their respective signatories are intended to authenticate such signatures and to give rise to a valid, enforceable, and fully effective agreement when so executed by all the Parties. The Parties further agree if a Party has evidenced its signature by forwarding an electronic copy of a signed Second Amendment, it will confirm that signature by forwarding to the other Party within ten (10) days an ink-signed original of the applicable Second Amendment but the failure to so forward an ink-signed original will not affect in any way the validity or enforceability of the applicable Second Amendment.

5. **Submission of PSA/PA - Nonbinding Until Signed:** Each of the Parties agree, accept, and understand that a submission of this Second Amendment for examination, review, editing or signature by either Party, in any form or by electronic or digital means, by email, facsimile or DocuSign, by verbal confirmation or discussion or by any other means of delivery, does not constitute a binding agreement or contract, nor does it constitute a meeting of the minds or a commitment to execute the Second Amendment thereto, and this Second Amendment thereto, shall only be legally binding and enforceable upon full execution by all Parties. The Parties acknowledge and agree that this Second Amendment thereto, are nonbinding on either Party and neither Party may claim any legal rights against the other by reason of the existence of this Second Amendment thereto, or by reason of actions taken in reliance upon this Second Amendment thereto (including, but not limited to, any obligation to continue negotiations) unless and until this Second Amendment thereto, are fully executed by all of the Parties.

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6. **Signing Warranty:** By signing below, each signatory for a Party warrants and represents that he/she executed this Second Amendment, in his/her authorized capacity, that he/she has the authority to bind the entity or person for whom he/she signs to contractual obligations and that, by his/her signature, the entity or person on behalf of which he/she acted executed this Second Amendment.

7. **Construction:** This Second Amendment shall not be construed more strongly against either Party regardless of who is more responsible for its preparation.

**IN WITNESS WHEREOF,** Owner and Consultant have entered into this Second Amendment effective as of the date it is fully executed by all Parties below ("Effective Date").

**CONSULTANT: RRM Design Group**

DocuSigned by:  
  
1B3835676AA7433...  
**Lief McKay**, Principal in Charge

3/15/2024

**Date**

**OWNER: COUNTY OF SANTA CLARA, a political subdivision of the State of California**

\_\_\_\_\_  
**Susan Ellenberg**, President  
Board of Supervisors

\_\_\_\_\_  
**Date**

Signed and certified that a copy of this document  
has been delivered by electronic or other means  
to the President, Board of Supervisors.

**ATTEST:**

\_\_\_\_\_  
**Curtis Boone**  
Acting Clerk of the Board of Supervisors

\_\_\_\_\_  
**Date**

**APPROVED AS TO FORM AND LEGALITY:**

DocuSigned by:  
  
E652543B37504DC...  
**Nick DeFiesta**, Deputy County Counsel