


RESOLUTION NO. 2001-38

**A RESOLUTION
OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
APPROVING A CONTRACT FOR BUILDING SAFETY AND INSPECTION
SERVICES BETWEEN SACRAMENTO COUNTY AND THE CITY OF ELK GROVE**


BE IT RESOLVED AND ORDERED, that the Mayor of the City Council of the City of Elk Grove be and is hereby authorized and directed to execute the contract for Building Safety and Inspection Services Between the City of Elk Grove and the County of Sacramento in the form attached hereto, on behalf of the City of Elk Grove, a political subdivision of the State of California, a duly incorporated city within the County of Sacramento, regarding provision of these services; and to do and perform everything necessary to carry out the purpose of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Elk Grove on the 20th day of June 2001.




JAMES COOPER, MAYOR
CITY OF ELK GROVE

ATTEST:



PEGGY JACKSON, CITY CLERK
CITY OF ELK GROVE

APPROVED AS TO FORM:



ANTHONY MANZANETTI,
CITY ATTORNEY
CITY OF ELK GROVE

AYES: Leary, Scherman, Cooper,
Briggs, Soares
NOES: None
ABSTAIN: Non
ABSENT: None

CITY OF ELK GROVE



CONTRACT
FOR

BUILDING SAFETY & INSPECTION SERVICES

WITH
COUNTY OF SACRAMENTO

CITY OF ELK GROVE
Agreement for
Public Works Community Development Services

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An extra section break has been inserted above this paragraph. Do not delete this section break if you plan to add text after the Table of Contents/Authorities. Deleting this break will cause Table of Contents/Authorities headers and footers to appear on any pages following the Table of Contents/Authorities.

CITY OF ELK GROVE**CONTRACT
FOR
BUILDING INSPECTION SERVICES**

THIS CONTRACT (hereinafter referred to as "Agreement") is made and entered into between City of Elk Grove, a municipal corporation organized and existing under the laws of the State of California ("City") and the County of Sacramento, a political subdivision of the State of California ("County"). City and County agree as follows:

1. SCOPE OF AND STANDARDS FOR SERVICES:

A. **CONTRACT.** County shall do all work, attend all meetings, produce all reports and carry out all activities necessary to completion of the services described in the **SCOPE OF AND PERFORMANCE STANDARDS FOR SERVICES**, attached hereto, identified as **Exhibit A** and incorporated herein by this reference, as reasonably requested by the City, for **Building Inspection Services**. County shall, at no cost to the City, make any revisions of its own work as reasonably required by the City and re-do, at no cost to the City, any work which the City finds unsatisfactory. County represents and warrants that it has the qualifications, experience, and facilities to properly perform said services in a thorough, competent, and professional manner. City does not, by entering into this Agreement, guarantee, represent or warrant that all of the work and services it may require involving the above mentioned services shall be done by County or under this Agreement, and City expressly reserves the right to perform itself with or without the use of independent contractors other than County, up to ten percent (10%) of the projected value of the 2001-2002 budgeted amount for services under this Agreement.

B. **CONTRACT DOCUMENTS.** This document and its exhibits shall be known as the "Agreement." Terms set forth in any exhibit to this Agreement shall be deemed to be incorporated in this Agreement as if set forth in full herein. In the event of conflict between terms in the Agreement, including any exhibit, the more specific term shall control. If either party to this contract deems that any portion of the Agreement shall be in conflict with any other portion, the Parties shall first attempt to informally reach an interpretation of those provisions so as to reconcile them. If after five (5) business days the Parties are unable to reach an informal resolution, the City shall issue in writing an interpretation resolving the conflicting provisions, which shall be provided to County. The interpretation provided by the City shall become final and binding on the parties three (3) business days after it was provided to County, and shall thereafter be an integrated term of this Agreement and neither party shall be considered to be the drafter of the provision.



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C. COUNTY IS INDEPENDENT CONTRACTOR. County enters into this Agreement as, and shall at all times remain as to the City, an independent contractor and not as an employee of the City. Nothing in this Agreement shall be construed to be inconsistent with this relationship or status. County shall at all times while performing services under this Agreement conduct itself as an independent contractor. The County shall have no power or authority except by this Agreement to bind the City in any respect. All employees, agents, contractors or subcontractors hired or retained by the County to perform services under this Agreement are and at all times shall be employees, agents, contractors or subcontractors of the County and not of the City. The personnel performing the services under this Agreement on behalf of County shall at all time be under County's exclusive direction and control. Neither City nor any of its officers, employees or agents shall have control over the conduct of County or any of County's officers, employees, or agents, except as set forth in this Agreement. County shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers or employees of the City, and they shall not represent that they are agents of the City of Elk Grove except in the limited capacity to perform services under this Agreement. The County shall inform the City of the need for disclaimers in those situations that the County deems appropriate, however, the use of disclaimers in the performance of this Agreement shall be at the exclusive direction of the City in its sole discretion. Notwithstanding the foregoing limitation, it is the City's expectation that this Agreement will create a stand alone department that will convey the public perception that the services provided under this Agreement are being performed by a City department under contract with the County of Sacramento. Such perception is expected to take the form of offices, vehicles, business cards, stationary, form and similar items that will convey to the public the fact that the services provided under this Agreement are being provided by the City under a contract with the County of Sacramento. The County will not be deemed to be in violation of any of the requirements of this section by creating the above perception. To the extent the City desires to have the County include any disclaimer with respect to the status of any the County's employees, agents, contractors or subcontractors performing services under this Agreement, the City may provide at its sole discretion direction to the County with respect to the form of such disclaimers which direction shall be implemented by the County. County shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner not contemplated in this Agreement. The City shall not be responsible, obligated, or liable in any way to pay any salary, wage, compensation, tax, withholding, benefit, injury, illness claims or other claims made against the County and/or the City by any such employees, agents, contractors or subcontractors, or any other person arising from performance of this Agreement. Additionally, County shall be solely responsible, obligated, and liable for any and/or all salary, wage, compensation, tax, withholding, benefit, injury, illness or other similar employment-related claims made against County and/or the City by any such employees, agents, contractors or subcontractors, or other person arising from performance of this contract by the County, its employees, agents, contractors, subcontractors or others performing directly at the County's direction, and County shall indemnify, defend and hold harmless the City against such claims. Any performance under this Agreement shall be by only the County, its employees, agents, contractors, subcontractors or others performing directly at the County's direction.



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D. NO PAY FOR ADDITIONAL SERVICES WITHOUT WRITING. County shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein or listed in Exhibit A, unless such additional services are authorized in advance and in writing by the City Manager. County shall be compensated for any additional services in the amounts and in the manner as agreed to by City and County at the time City's express written authorization signed by the City Manager is given to County for the performance of said services and authorized by the Director.

2. STATUS OF COUNTY PERSONNEL

A. AGENT OF CITY. For the purposes of performing the services provided for in this Agreement, and for the purpose of giving official status to the performance thereof where necessary, every County officer and employee engaged in the performance of any service under this Agreement shall be deemed to be an agent of City only while performing such services, provided that such services are within the scope of this Agreement and are purely municipal functions. Notwithstanding the agency relationship established by this subsection, City shall not be liable for any act or omission of any County officer or employee performing the services provided for in this Agreement, unless specifically provided for in this Agreement.

B. EMPLOYEES OF COUNTY. Any persons employed by County for the performance of services pursuant to this Agreement shall remain employees of County, shall at all times be under the direction and control of County, and shall not be considered employees of City. All persons employed by County to perform services pursuant to this Agreement shall be entitled solely to the right and privileges afforded to County employees, if any, and shall not be entitled, as a result of providing services hereunder, to any rights or privileges that may be afforded to City employees.

C. INDEPENDENT INVESTIGATION. The County agrees and hereby represents it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Agreement is based on such independent investigation and research.

D. COMPLIANCE WITH EMPLOYMENT LAWS. The County shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Agreement or the materials used or which in any way affect the conduct of the work.

E. UNLAWFUL DISCRIMINATION PROHIBITED. County shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation.



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3. **TIME OF PERFORMANCE:**

The services of County are to commence upon execution of this Agreement by City, and shall be undertaken and completed in a prompt and timely manner, in accordance with the Work Program referenced in Exhibit A.

4. **COMPENSATION:**

A. **TERMS.** Compensation to the County, for Building Safety & Inspection services, shall be as set forth in **Exhibit B**, attached hereto and made a part of the Agreement Documents hereof.

B. **CITY BUILDING PERMIT FEES.** The City agrees to adopt and maintain within the City, at a minimum, the same building permit fee schedule that was in effect within the unincorporated area of the County as of July 1, 2000, through June 30, 2002. The fees imposed pursuant to such schedule shall be collected by the County and retained as compensation for providing building inspection services pursuant to this Agreement. The City has the right to take over the collection function on 30 days notice to County. For fiscal year 2002-2003 and continuing for each successive fiscal year thereafter during the term of this Agreement, the City and the County shall meet and confer with respect to (1) any adjustments in building permit fees that may be necessary so that the anticipated revenue from building inspection fees during the next fiscal year is equivalent to the County's estimated cost of providing building inspection services during such fiscal year, and (2) the percentage of value of the services contemplated by this Agreement that the City may independently perform itself with or without the use of independent contractors other than County. This meet and confer process shall commence no later than March 1st and shall be completed no later than May 31st. If the City and County reach agreement on an appropriate adjustment in building inspection fees for the forthcoming fiscal year, the City shall adopt any such adjustment so that it is effective as of July 1st of that fiscal year. If the City fails to adopt any such agreed to adjustment or the parties are unable to reach agreement with respect to this issue, the County shall have the right to terminate this Agreement. As an alternative to the termination of this Agreement, the County shall have the right to reduce its personnel and other resources assigned to provide building inspection services pursuant to this Agreement so that in the judgment of the Director the County's estimated cost of providing services in the succeeding fiscal year is equal to the estimated revenue during such succeeding fiscal year from the existing level of building permit fees. . The County shall likewise have the same right to reduce its personnel and other resources if the City fails to maintain its building inspection fees at those levels required by this Agreement. In the event that the County reduces its personnel and resources under the foregoing circumstances, the County shall no longer be obligated to comply with the performance standards set forth in Exhibit A.

C. **TIME FOR PAYMENT.** Should the City decide to take over the collection function, the City and County shall also reach agreement regarding payments and collection. Should the City decide to take over the collection function, the City shall agree to pay to the County the compensation due to the County, in the amount of the fees remitted to the City, as soon as practical after the City has accounted for the fees within the City's financial system.



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5. SUPERVISON, LABOR AGREEMENTS AND PERSONNEL:

A. DIRECTOR SUPERVISES PERSONNEL. The Director of County Engineering and Administration (hereinafter "Director") shall have the responsibility for supervising the services to be provided under this Agreement, hiring of personnel, establishing standards of performance, assignment of personnel, determining and affecting discipline, determining required training, maintaining personnel files, and other matters relating to the performance of services and control of personnel. The City Manager, or the City Manager's designee, (hereinafter the "City Manager" or "Manager" shall include the City Manager's designee) may use any reasonable means to monitor performance and the Director shall comply with the City Manager's request to monitor performance.

B. LABOR RELATIONS. County shall be responsible for negotiating and administrating all labor relations agreements and personnel rules and procedures between County and its employees rendering services pursuant to this Agreement.

C. PERFORMANCE NOT SUBJECT TO EMPLOYMENT AGREEMENTS.

The City acknowledges that the County is legally obligated to comply with bargaining agreements covering County employees performing services pursuant to this Agreement and, as a result, agrees that the County's performance under this Agreement shall be subject to any such bargaining agreements. However, the County shall be obligated to provide services at the agreed to levels regardless of any event of a strike, work slow-down, strike, "blue flu" or any other type of job action (formal or informal) by County employees ("Labor Action") assigned to perform services under this Agreement Labor Action, and any Labor Action does not excuse the County from performance under this Agreement. In the event of any Labor Action, the County will have to use replacement workers, management personnel or make other arrangements to furnish the services called for in this Agreement. Additionally, in the event of a Labor Action, the City shall have the unconditional and unilateral right to maintain the level of service contemplated by this Agreement through all means the City deems, in its unfettered discretion, appropriate ("Cover"), and the County shall reimburse the City for all costs of such Cover.

D. APPROVAL OF STAFF MEMBERS. County shall make every reasonable effort to maintain the stability and continuity of County's staff assigned to perform the services required under this Agreement. County shall notify the City Manager of any changes in County's staff to be assigned to perform the services required under this Agreement. The Director and the City Manager shall agree on a list of all proposed staff members who are to be assigned to perform services under this Agreement prior to any such performance.

E. LOCATION OF PERFORMANCE. Upon the request of the City Manager, County shall require its employees providing services under this Agreement to work at a location designated by the City Manager. If the location designated by the City Manager is one in which the City has a real property interest, the County shall pay monthly to the City rent, in an amount determined by the City, for the space in the specified location, as set forth in Exhibit B.



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F. **EXCLUSIVITY OF SERVICE.** The City Manager may request some or all of the County's employees providing service under this Agreement to be providing services exclusively to the City.

6. **TERM OF CONTRACT & TERMINATION:**

A. **TERM OF CONTRACT.** The term of this Agreement shall be from July 1, 2001 until June 30, 2004, unless terminated sooner as set forth herein.

B. **120 DAYS NOTICE.** Either party, without cause, may terminate this Agreement at any time by the City upon one hundred twenty (120) days written notice. In the event of such termination, County shall be compensated for non-disputed fees and costs under the terms of this Agreement up to the date of termination until the Parties resolve the dispute.

C. **OBLIGATIONS SURVIVE TERMINATION.** Notwithstanding any termination of this Agreement, County shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by County, and the City may withhold any payments due to County under this Agreement, in a cumulative amount not to exceed the amount of damages claimed, until such time as the exact amount of damages, if any, due the City from County is determined. All of the identification, defense and hold harmless obligations in this Agreement shall survive termination.

7. **CHANGES:**

The City or County may, from time to time, request changes in the scope of the services of County to be performed hereunder. Such changes, including any increase or decrease in the amount of County's compensation and/or changes in the schedule must be authorized in writing in advance by both the Director and the City Manager. Mutually agreed changes shall be incorporated in written amendments to this Agreement. Any increase in the amount of County's compensation and/or changes in Exhibit A and or Exhibit B must be authorized in advance by the City Manager and the Director.

8. **PROPERTY OF CITY:**

A. **MATERIALS PREPARED EXCLUSIVE PROPERTY OF CITY.**

It is mutually agreed that all materials prepared by the County under this Agreement, except County internal personnel, payroll and accounting records, and similar administrative records, are upon creation and shall be at all times the exclusive property of the City, and the County shall have no property right therein whatsoever. County shall not disseminate to third parties any such City information or reports gathered or created pursuant to this Agreement without the prior written approval of City including without limitation information or reports required by government agencies to enable County to perform its duties under this Agreement and as may be required under the California Public Records Act excepting therefrom as may be provided by court order.



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B. COUNTY TO DELIVER CITY PROPERTY.

Within thirty (30) days after termination, or upon the request by the City, the City shall be entitled to, and the County shall deliver to the City, all data, drawings, specifications, reports, estimates, summaries and other such materials and property of the City as may have been prepared or accumulated to date by the County in performing this Agreement.

C. PUBLIC RECORDS ACT REQUESTS.

The City shall be responsible for the response to and the defense of all California Public Record Act requests delivered to the County regarding services performed under this agreement, as long as the County forwards such request to the City in a timely manner and otherwise complies with the City policies regarding California Public Record Act requests that have been furnished to the Director. The County shall cooperate with the City in regards to such California Public Record Act requests and the County shall comply with the City policies regarding California Public Record Act requests that have been furnished to the Director, to the extent the City's Public Records Act policy does not contradict the terms of this Agreement. Subject to the County's compliance with this paragraph, the City shall indemnify, defend and hold harmless the County and its officers, agents, employees and independent contractors against any legal action or claim of any kind related to the City's failure to comply with the Public Records Act in connection with requests delivered to the County and forwarded to the City pursuant to this paragraph.

9. CONFIDENTIAL INFORMATION

A. ALL INFORMATION KEPT IN CONFIDENCE. All information gained by County in performance of this Agreement shall, as between the parties to this contract and third parties, be considered to be confidential and shall not be released by either party without the other's prior written authorization, including without limitation, that information which is a public record and subject to disclosure pursuant to the California Public Records Act Government Code §6250, et seq., except by court order or permission of the City. The County, its officers, employees, agents, or subcontractors, shall not without written authorization first given by the City Attorney, voluntarily provide to any third party declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning services or performance under this Agreement. This section shall not apply to contractual disputes between the parties regarding this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided County or City gives notice to the other party of such court order or subpoena.

B. REIMBURSEMENT FOR UNAUTHORIZED RELEASE. If City or County or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Agreement, the other party has the right to reimbursement and indemnity from party releasing such information for any damages caused by the releasing party's, including the non-releasing party's attorney's fees and disbursements, including without limitation expert's fees and disbursements.



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C. **COOPERATION.** City and County shall promptly notify the other party should County or City, its officers, employees, agents, or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the services and performance hereunder. City and County each retains the right, but has no obligation, to be present at any deposition, hearing or similar proceeding regarding this Agreement and the services and performance hereunder. Neither the City nor the County shall have the obligation to represent or pay for the representation of the other party under circumstances contemplated by this paragraph 9.C. County and City agree to cooperate fully with the other party and to provide the other party with the opportunity to review any response to discovery requests provided by County or City. However, City and County's right to review any such response does not imply or mean the right by the other party to control, direct, or rewrite said response. This section shall not apply to contractual disputes between the parties regarding this Agreement.

10. **PROVISION OF LABOR, EQUIPMENT AND SUPPLIES**

A. **COUNTY PROPERTY.** County shall furnish all necessary labor, supervision, equipment, communications facilities, and supplies necessary to perform the services required by this Agreement. City acknowledges that all equipment and other tangible assets used by County in providing these services are the property of County and shall remain the property of County upon termination of this Agreement.

B. **SPECIAL SUPPLIES.** City shall be responsible for supplying any special supplies, stationary, notices, forms or similar items that it requires to be issued with a City logo. All such items shall be approved by the City Manager and shall be provided at City's sole cost and expense.

11. **COMPLIANCE WITH LOCAL LAW:**

County shall keep itself informed of applicable local, state, and federal laws and regulations which may affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. County shall observe and comply with all applicable laws, ordinances, regulations and codes of federal, state and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Agreement. The City agrees to accept for legal responsibility for legal deficiencies in city ordinances, regulations or any conflict of such City enactments with State or Federal law. The County agrees to notify the City, before compliance, when the County believes or has reason to believe that such a condition exists with regards to a law, city ordinance or regulation with which the County is obligated to comply, however, failure to do so shall not give rise to liability nor indemnity obligations on behalf of County. With the exception of liability for legal deficiencies in city ordinances, regulations or any conflict of such City enactments with State or Federal law, the City, its officials, officers, elected officials, appointed officials and employees shall not be liable at law or in equity as a result of any failure of County to comply with this section.



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12. REPRESENTATION:

County agrees and represents that it is qualified to properly provide the services set forth in Exhibit A in a manner which is consistent with the generally accepted standards of County's profession. County further represents and agrees that it will perform these services in a legally adequate manner in conformance with applicable federal, state and local laws and guidelines.

13. SUBCONTRACTING:

None of the services covered by this Agreement shall be subcontracted without the prior written consent of the City Manager, or the City Manager's designee. County shall be as fully responsible to the City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by County.

14. ASSIGNABILITY:

County shall not assign or transfer any interest in this Agreement whether by assignment or novation. However, claims for money due or to become due County from the City under this Agreement may be assigned to a financial institution, but only with prior written consent of the City Manager. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the City.

15. INTEREST IN CONTRACT:

County covenants that none of its employees, agents, contractors, subcontractors performing work under this Agreement, has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Agreement, nor any other interest or other work assignments from the County which would conflict in any manner or degree with the performance of services under this Agreement.

16. FINDINGS CONFIDENTIAL:

Subject to the provisions of Sections 8 and 9 of this Agreement, and except for County internal personnel, payroll and accounting records, and similar administrative records, all of the materials prepared, received or assembled by County pursuant to performance of this Agreement are confidential and County agrees that they shall, as between the parties to this Agreement, not be made available to any individual or organization, without the prior written approval of the City Manager, or the City Manager's designee, except by court order. However, County shall not be deemed for any purposes a confidential employee of the City.

17. LIABILITY OF COUNTY:

County shall be responsible for performing the work under this Agreement in a manner which is consistent with the generally accepted standards of the profession and shall be liable for



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its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to County or its employees, agents, contractors or subcontractors.

18. INDEMNITY AND LITIGATION COSTS:

A. COUNTY IS SKILLED. County represents it is skilled in the services necessary to perform the duties agreed to hereunder by County, and City relies upon the skills and knowledge of County. County shall perform such duties consistent with the standards generally recognized as being employed by agencies or contractors performing similar service in the State of California.

B. CITY SHALL INDEMNIFY. The County and its officers, agents and employees shall not be deemed to have assumed any liability for the negligence or other act or omission of City or any of its officers, agents or employees, or for any illegality or unconstitutionality of the City's ordinances. The City shall indemnify and hold the County and its officers, agents, employees and independent contractors harmless from any claim or liability whatsoever, based or asserted upon the illegality or unconstitutionality of any City ordinances that the County has enforced under this Agreement, or upon any act or omission of the City or its officers, agents, employees subcontractors and independent contractors (other than the County) related to this Agreement, for property damage, bodily injury or death or any other element of damage of any kind or nature, and the City shall defend at its expense with counsel reasonably acceptable to the County, including attorney fees, the County and its officers, agents, employees and independent contractors in any legal action or claim of any kind based upon such alleged illegality or unconstitutionality of a City ordinance, or such alleged acts or omissions.

C. COUNTY SHALL INDEMNIFY. The City and its officers, agents and employees shall not be deemed to have assumed any liability for the negligence or other act or omission of County or any of its officers, agents or employees. The County shall indemnify and hold the City and its officers, agents, employees and independent contractors harmless from any claim or liability whatsoever, based or asserted upon any act or omission of the County or its officers, agents, employees subcontractors and independent contractors related to this Agreement, for property damage, bodily injury or death or any other element of damage of any kind or nature, and the County shall defend at its expense, including attorney fees, the City and its officers, agents, employees and independent contractors in any legal action or claim of any kind based upon such alleged acts or omissions.

D. COUNTY'S AUTHORITY LIMITED. County is an independent contractor and shall have no authority to bind City nor to create or incur any obligation on behalf of or liability against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. City and their elected and appointed officials, officers, agents, employees, and volunteers (individually and collectively, "Indemnities") shall have no liability to County or to any other person, except as set forth herein, for, and County shall indemnify, defend, protect, and hold harmless the



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Indemnities from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including reasonable attorneys' fees and disbursement, including without limitation expert's fees and disbursements (collectively "Claims"), which the Indemnities may suffer or incur or to which the Indemnities may become subject due to the County's violation of this section 18.D of this Agreement and subject to the exclusions set forth in this Agreement.

E. LIMITS OF INSURANCE NOT LIMITING INDEMNIFICATION. If any action or proceeding is brought against the Indemnities by reason of any of the matters against which County has agreed to indemnify the Indemnities as above provided, County, upon notice from the City, shall defend the Indemnities at County's expense. If any action or proceeding is brought against the County by reason of any of the matters against which Indemnities has agreed to indemnify the County as above provided, Indemnities, upon notice from the County, shall defend the County at Indemnities' expense. Neither party need to have first paid any of the matters as to which the other are entitled in order to be indemnified. The insurance required to be maintained by County under this Agreement shall ensure County's obligations under this paragraph 18, but the limits of such insurance shall not limit the liability of County hereunder. The provisions of this paragraph 18 shall survive the expiration or early termination of this Agreement.

19. COUNTY TO PROVIDE INSURANCE:

A. COUNTY SHALL MAINTAIN INSURANCE.

County shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Agreement the policies of insurance specified in this Section. Such insurance must have the approval of the City as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A:VII.

B. COUNTY TO PROVIDE ENDORSEMENTS AND POLICIES.

Prior to execution of this Agreement and prior to commencement of any work, the County shall furnish the City with original endorsements effecting coverage for all policies required by the Agreement. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. As an alternative to the City's forms, the County's insurer may, subject to the approval of the City, provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by this Section. The County agrees to furnish one copy of each required policy to the City, and additional copies as requested in writing, certified by an authorized representative of the insurer. Approval of the insurance by the City shall not relieve or decrease any liability of County.

C. CITY MAY OBTAIN INSURANCE AT COUNTY'S EXPENSE.



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In addition to any other remedy the City may have, if County fails to maintain the insurance coverage as required in this Section, the City may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and the City may deduct the cost of such insurance from any amounts due or which may become due County under this Agreement.

D. NO SUSPENSION OF INSURANCE. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, terminated by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

E. DEDUCTIBLES. Any deductibles must be declared to, and approved by, the City.

F. COVERAGES SHALL NOT LIMIT OBLIGATIONS. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by County are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by County under the Agreement.

G. REQUIRED LIMITS. County and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the performance or work under the Agreement not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the City. The maintenance by County and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this Agreement. The failure of County or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of this Agreement.

(1) Worker's Compensation and Employer's Liability Insurance.

a. Worker's Compensation. Insurance to protect the County, its contractors and subcontractors from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act ("Acts"), if applicable. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable state and Federal statutes and regulations. The County shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in the Agreement Documents.

b. Claims Against City. If an injury occurs to any employee of the County for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due the County under this Agreement, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the County.



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(2) Comprehensive General and Automobile Liability Insurance.

The insurance shall include, but not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than one million dollars (\$1,000,000.00) per occurrence/five thousand dollars (\$5,000) medical per occurrence.

The comprehensive general and automobile liability insurance coverage shall also include, or be endorsed to include, the following:

a. Provision or endorsement naming the City and each of its officers, employees, and agents, as additional insureds in regards to: liability arising out of the performance of any work under the Agreement; liability arising out of activities performed by or on behalf of the County; premises owned, occupied or used by the County; or automobiles owned, leased, hired or borrowed by the County. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

b. Provision or endorsement stating that for any claims related to this project, the County's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the County's insurance and shall not contribute with it.

c. Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of representations shall not affect coverage provided to the City, its officers, officials, employees, or volunteers.

d. Provision or endorsement stating that the County's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

e. Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by the County under the Agreement, including, without limitation, that set forth in paragraph 19, Indemnity and Litigation Costs.

20. RECORDS.

County shall maintain complete and accurate records with respect to labor costs, material expenses, parcels or customers serviced and other such information as may be required by City that relates to the performance of services under this Agreement. County shall maintain adequate records of services provided in sufficient detail to permit a detailed evaluation of services. All



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such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible and the County shall report to the City in a form acceptable to the City and with a frequency as required by the City (but not more often than once per month), both of which the City may specify and change from time to time. County shall: (1) provide free access to the representatives of City or its designees, at reasonable times, to such books and records, including without limitation all County internal personnel, payroll and accounting records, and similar administrative records and the materials prepared, received or assembled by the County in performance of this Agreement, (the "Records") (2) give City the right to examine and obtain an independent audit of the Records and other books and records of the County at any reasonable time and as often as the City desires, (3) permit City to make transcripts therefrom as necessary, and (4) allow inspection of all work, data, documents, proceedings, activities and Records related to this Agreement. Such Records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment under this Agreement. The City and County are aware of and shall comply with Government Code section 8546.7.

21. MISCELLANEOUS PROVISIONS:

A. ADMINISTRATION. The City Manager, or his or her designee, shall administer this Agreement on behalf of the City and the Director of County Engineering, or his or her designee, shall administer this Agreement on behalf of the County.

B. NONDISCRIMINATION/NONPREFERENTIAL TREATMENT STATEMENT.

In performing this Agreement, the parties shall not discriminate or grant preferential treatment on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, and shall comply to the fullest extent allowed by law, with all applicable local, state, and federal laws relating to nondiscrimination.

C. UNAUTHORIZED ALIENS. County hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. & 1101 et seq.), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should County so employ such unauthorized aliens for the performance of work and/or services covered by this contract, and should the Federal Government impose sanctions against the City for such use of unauthorized aliens, County hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

D. GOVERNING LAW. The City and County understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Venue for any litigation concerning this Agreement may be in the Sacramento Superior Court, however, the parties agree that the matter shall not be heard before a judge from Sacramento or Yolo County and shall be heard before a judge assigned by the Judicial Council from the Superior Court from a county other than Sacramento or Yolo counties.



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E. **ASSIGNMENT OR SUBSTITUTION.** City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon County by this Agreement. In recognition of that interest, neither any complete nor partial assignment of this Agreement, may be made by County nor changed, substituted for, deleted, or added to without the prior written consent of City which consent shall not be unreasonably withheld. Any attempted assignment or substitution shall be ineffective, null, and void, and constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

F. **ENTIRE CONTRACT.** This Agreement constitutes the entire Agreement and understanding between the parties relative to the subject matter and services specified herein and there are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Agreement, except those contained in or referred to in this Agreement and this Agreement supersedes all prior understandings, agreements, courses of conduct, prior dealings among the parties and documentation of any kind including without limitation, Sacramento LAFCo Resolution 1207, Sacramento County Resolution 99-104 and/or the ballot language of Measure J of the March 7, 2000 election in Sacramento County (hereinafter "Enacting Documents") to the extent the Enacting Documents relate to the subject matter of this Agreement.

G. **AMENDMENTS.** This Agreement may be modified or amended, or any of its provisions waived, only by a subsequent written agreement executed by each of the parties. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

H. **CONSTRUCTION AND INTERPRETATION.** County and City agree and acknowledge that the provisions of this Agreement have been arrived at through negotiation and that each party has had a full and fair opportunity revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Agreement shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as a substantive portion of this Agreement.

I. **WAIVER.** The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

J. **SEVERABILITY.** The invalidity, illegality or unenforceability, of any provision of this Agreement shall not render the other provisions invalid, illegal or unenforceable.

K. **NOTICES.** All invoices, payments, notices, demands, requests, comments, or approvals that are required to be given by one party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or



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certified mail addressed to the parties (deemed to have been received three (3) business days after deposit in the U.S. Mail) at the following addresses:

City: City of Elk Grove
City Manager
8400 Laguna Palms Way
Elk Grove, CA 95758

County: Director of County Engineering and Administration
County of Sacramento
827 7th Street, Room 304
Sacramento, CA 95814

Each party may change the address at which it gives notice by giving ten (10) days advance, written notice to the other party.

L. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of both County and City warrant and represent that they have the authority to execute this Agreement on behalf of their agency and warrant and represent that they have the authority to bind their agency to the performance of its obligations hereunder, and as evidence thereof resolutions of authority from both the County and the City to enter this Agreement shall be attached as Exhibit C.

AGREED to by the parties as follows.

CITY OF ELK GROVE, a municipal corporation

Dated: _____, 2001

By: _____
James A. Cooper,
MAYOR, CITY OF ELK GROVE

(SEAL)

Attest: _____
Peggy Jackson
City Clerk, City of Elk Grove

APPROVED AS TO FORM:

By _____



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Anthony B. Manzanetti
City Attorney, City of Elk Grove

COUNTY OF SACRAMENTO, a political
subdivision of the State of California

Dated: _____, 2001

By: _____

(SEAL)

Attest: _____

Clerk of the
Board of Supervisors

APPROVED AS TO FORM:

Deputy County Counsel



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CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract. [Ref., Lab. C §1861.]

COUNTY

By: Terry Schutten
Administrator, Sacramento County



EXHIBIT A
BUILDING SAFETY & INSPECTION SERVICES
SCOPE OF AND PERFORMANCE STANDARDS FOR SERVICES

• SCOPE OF SERVICE	• PERFORMANCE STANDARD
A PREPARE A WORKSHOP GIVING AN OVERVIEW OF THE BUILDING AND SAFETY SERVICES PROVIDED BY BUILDING INSPECTION.	This workshop can be presented within 60 days of Council request.
B Provide initial building plan review for commercial jobs.	Average timelines for a complete set of submitted plans ¹ : Small job: 5 work days Medium job: 10 work days Large job: 15 work days
C Provide initial building plan review for residential jobs.	Average timelines for a complete set of submitted plans: Additions: 5 work days Single family 10 work days.
D Provide building plan review rechecks.	Average timeline for a complete set of resubmitted plans 5 work days.
E Requests for building inspection services.	Next work day. Continue to use the automated building inspection request system and associated computer equipment. Provide vehicles and related costs.
F Provide permit counter and clerical support services.	Continue to use the existing building permit office at 9647 East Stockton Blvd until a City Hall location is available. Assist in integrating building and safety services into the City's one-stop customer service center when the City determines a location. Continue using the existing automated building permit processing system and associated computer equipment.
G Provide building and safety program management.	Dedicate a full-time Building Official for the City.

¹ Job size defined as:
Small job: \$0-\$10,000
Medium job: \$10,001-\$150,000
Large job: Greater than \$150,000



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H Provide Storm Water Pollution Prevention Program services.	Adhere to regulatory requirement.
I Code Enforcement Services <ul style="list-style-type: none">• Work without a permit.• Change in Use or Occupancy without a permit. (Does not include dangerous or substandard building enforcement)	Respond to complaints within 3 work days.
J Constituent Complaints through City Staff.	Respond to City staff within 1 workday.



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EXHIBIT B

BUILDING SAFETY & INSPECTION SERVICES

COMPENSATION AND METHOD OF PAYMENT

Compensation for Building and Safety Services to the City of Elk Grove as described in Exhibit A "Scope of and Performance Standards for Services" section is based on 100% of the building permit fees collected per Chapter 16.90-Construction Permit Fees and Resolution 97-0796-Annual Adjustment of Building Valuation of the Elk Grove City code.

Compensation for providing cashing services for fees other than Building and Safety Services to the City of Elk Grove and others shall be via Memoranda of Understanding for cost recovery and will be established with each governmental entity requesting fee collection.

The County shall pay monthly rent to the City, including but not limited to utilities and maintenance costs, for the use of City office space. The rental amount shall be based on the City's actual cost of providing such space. The rental amount shall be \$8,360.00 per month and the County shall occupy no more than 4000 gross square feet within City hall under this contract. This amount, however, shall be subject to change based on the City's actual provision of office space at the rate of \$2.09 per gross square foot, in excess of the 4000 gross square feet initially allocated to the County.