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November 1, 2021

Honorable Board of Directors
Marin County Transit District
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Design Services Contract for 3000 Kerner not to exceed \$150,000

board of directors

Dear Board Members:

kate colin
president
city of san rafael

RECOMMENDATION: Authorize General Manager to execute Contract #1067 with Gutierrez/Associates Architects for an amount not to exceed \$124,935.

judy arnold
vice president
supervisor district 5

SUMMARY:

Staff recommends that your Board authorize the General Manager to enter into an agreement with Gutierrez/Associates Architects for design work related to the renovation of 3000 Kerner for use as a Marin Access programs Maintenance and Operations facility. This contract will allow for preparation of design and construction documents for construction and permitting. The facility needs to be ready for use before February 1, 2022 for a seamless transition of Marin Access services between operations contractors. Potential improvements include the addition of some interior walls and minor electrical work for the office space as well as the addition of air, electricity, and ventilation for the maintenance facility.

stephanie moulton-peters
2nd vice president
supervisor district 3

damon connolly
director
supervisor district 1

eric lucan
director
city of novato

Marin Transit completed conceptual design work for the facility improvements through a task order with Marin Transit's General Engineering Services contract with Mark Thomas, Inc. The project size and timeline requires professional services beyond our General Engineering Services contract to complete the design work. Staff prepared and released a design-build RFP for the project, but no successful bids were received. Based on feedback from potential bidders, Marin Transit developed a separate RFP for the design work and construction documents to move the project forward.

katie rice
director
supervisor district 2

dennis rodoni
director
supervisor district 4

Marin Transit released a Request for Proposals (RFP) for this project on October 13th, 2021. The following technical and price factors were identified as evaluation criteria in the RFP:

brian colbert
alternate
town of san anselmo

Criteria	Max Points Available
Similar Past Project Work	20
Qualifications of Key Personnel	20

Adequacy of resources and ability to meet the project timeline	30
Cost	30
Total	100

Proposals were received from Gutierrez/Associates Architects and CSE Structural Engineers and by the deadline on October 21, 2021. Both firms submitted complete proposals. A panel made up of Marin Transit staff reviewed and scored the proposals and is recommending award of this contract to Gutierrez/Associates Architects. While both proposals demonstrated a qualified staff and an ability to meet Marin Transit’s accelerated timeline for accomplishing design work, after review of proposals and during informal phone interviews, it was found that Gutierrez/Associates architects had a more complete team in place to fulfill project requirements and are determined to be the best value contractor.

Once the contract is awarded, staff will immediately initiate work to finalize design plans and layouts to meet the February 1, 2022 project completion deadline. Staff will continue to work to streamline the project to ensure the building is ready for occupancy no later than February 1, 2022.

FISCAL IMPACT:

The maximum contract cost is \$124,935. The costs are included in the FY2022 Capital Budget as FD – Facility- Kerner Improvements. The project is funded with local Property Tax.

Respectively submitted,



Anna Penoyar
Capital Projects Manager

Attachment: Agreement between Marin County Transit District and Gutierrez/Associates Architects

**MARIN COUNTY TRANSIT DISTRICT
PROFESSIONAL SERVICES CONTRACT**

THIS CONTRACT is made and entered into this 1st day of November, 2021, by and between the MARIN COUNTY TRANSIT DISTRICT, hereinafter referred to as "District" and Gutierrez/Associates Architects, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, District desires to retain a person or firm to provide the following service: Design Services for Renovation of 3000 Kerner; and

WHEREAS, Contractor warrants that it is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the Contract made, and the payments to be made by District, the parties agree to the following:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the services described in **Exhibit A** attached hereto and by this reference made a part hereof.

2. FURNISHED SERVICES:

The District agrees to:

- A. Guarantee access to and make provisions for the Contractor to enter upon public and private lands as required to perform their work.
- B. Make available all pertinent data and records for review.
- C. Provide general bid and Contract forms and special provisions format when needed.

3. FEES AND PAYMENT SCHEDULE:

The fees and payment schedule for furnishing services under this Contract shall be based on the rate schedule which is attached hereto as **Exhibit B** and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the Contract. Contractor shall provide District with his/her/its Federal Tax I.D. number prior to submitting the first invoice.

4. MAXIMUM COST TO DISTRICT:

In no event will the cost to District for the services to be provided herein exceed the maximum sum of **\$ 124,935** including direct non-salary expenses. As set forth in section 14 of this Contract, should the funding source for this Contract be reduced, Contractor agrees that this maximum cost to District may be amended by written notice from District to reflect that reduction.

5. TIME OF CONTRACT:

This Contract shall commence on November 1, 2021, and shall terminate on November 1, 2022. Certificate(s) of Insurance must be current on day Contract commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor. The final invoice must be submitted within 30 days of completion of the stated scope of services.

6. INSURANCE:

Commercial General Liability:

The Contractor shall maintain a commercial general liability insurance policy in the amount of \$1,000,000 (\$2,000,000 aggregate). The District shall be named as an additional insured on the commercial general liability policy.

Commercial Automobile Liability:

Where the services to be provided under this Contract involve or require the use of any type of vehicle by Contractor, Contractor shall provide comprehensive business or commercial automobile liability coverage, including non-owned and hired automobile liability, in the amount of \$1,000,000.00.

Workers' Compensation:

The Contractor acknowledges the State of California requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code. If Contractor has employees, a copy of the certificate evidencing such insurance, a letter of self-insurance, or a copy of the Certificate of Consent to Self-Insure shall be provided to the District prior to commencement of work.

Errors and Omissions, Professional Liability or Malpractice Insurance.

Contractor may be required to carry errors and omissions, professional liability or malpractice insurance.

All policies shall remain in force through the life of this Contract and shall be payable on a "per occurrence" basis unless District specifically consents to a "claims made" basis. The insurer shall supply District adequate proof of insurance and/or a certificate of insurance evidencing coverages and limits prior to commencement of work. Should any of the required insurance policies in this Contract be cancelled or non-renewed, it is the Contractor's duty to notify the District immediately upon receipt of the notice of cancellation or non-renewal.

If Contractor does not carry a required insurance coverage and/or does not meet the required limits, the coverage limits and deductibles shall be set forth on a waiver, **Exhibit C**, attached hereto.

Failure to provide and maintain the insurance required by this Contract will constitute a material breach of this Contract. In addition to any other available remedies, District may suspend payment to the Contractor for any services provided during any time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required coverage.

7. ANTI DISCRIMINATION AND ANTI HARASSMENT:

Contractor and/or any subcontractor shall not unlawfully discriminate against or harass any individual including, but not limited to, any employee or volunteer of the Marin County Transit District based on race, color, religion, nationality, sex, sexual orientation, age or condition of disability. Contractor and/or any subcontractor understands and agrees that Contractor and/or any subcontractor is bound by and will comply with the anti discrimination and anti harassment mandates of all Federal, State and local statutes, regulations and ordinances.

8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Contract without prior written approval of the District except for any subcontract work identified herein. If Contractor hires a subcontractor under this Contract, Contractor shall require subcontractor to provide and maintain insurance coverage(s) identical to what is required of Contractor under this Contract and shall require subcontractor to name Contractor and Marin County Transit District as an additional insured under this Contract for general liability. It shall be Contractor's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to the District evidence of same.

9. ASSIGNMENT:

The rights, responsibilities and duties under this Contract are personal to the Contractor and may not be transferred or assigned without the express prior written consent of the District.

10. LICENSING AND PERMITS:

The Contractor shall maintain the appropriate licenses throughout the life of this Contract. Contractor shall also obtain any and all permits which might be required by the work to be performed herein.

11. BOOKS OF RECORD AND AUDIT PROVISION:

Contractor shall maintain on a current basis complete books and records relating to this Contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this Contract. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this Contract. Contractor will permit District to audit all books, accounts or records relating to this Contract or all books, accounts or records of any business entities controlled by Contractor who participated in this Contract in any way. Any audit may be conducted on Contractor's premises or, at District's option, Contractor shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from District. Contractor shall refund any monies erroneously charged.

12. WORK PRODUCT/PRE-EXISTING WORK PRODUCT OF CONTRACTOR:

Any and all work product resulting from this Contract is commissioned by the Marin County Transit District as a work for hire. The Marin County Transit District shall be considered, for all purposes, the author of the work product and shall have all rights of authorship to the work, including, but not limited to, the exclusive right to use, publish, reproduce, copy and make derivative use of, the work product or otherwise grant others limited rights to use the work product.

To the extent Contractor incorporates into the work product any pre-existing work product owned by Contractor, Contractor hereby acknowledges and agrees that ownership of such work product shall be transferred to the Marin County Transit District.

13. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law which applies to its performance herein, the District may terminate this Contract by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract so long as proof of required insurance is provided for the periods covered in the Contract or Amendment(s).

14. APPROPRIATIONS:

The District's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Marin County Transit District Board of Directors, the State of California or other third party. Should the funds not be appropriated District may terminate this Contract with respect to those payments for which such funds are not appropriated. District will give Contractor thirty (30) days' written notice of such termination. All obligations of District to make payments after the termination date will cease.

Where the funding source for this Contract is contingent upon an annual appropriation or grant from the Marin County Transit District Board of Directors, the State of California or other third party, District's performance and obligation to pay under this Contract is limited by the availability of those funds. Should the funding source for this Contract be eliminated or reduced, upon written notice to Contractor, District may reduce the Maximum Cost to District identified in section 4 to reflect that elimination or reduction.

15. RELATIONSHIP BETWEEN THE PARTIES:

It is expressly understood that in the performance of the services herein, the Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent Contractor and not as officers, employees or agents of the District. Contractor shall be solely responsible to pay all required taxes, including but not limited to, all withholding social security, and workers' compensation.

16. AMENDMENT:

This Contract may be amended or modified only by written Contract of all parties.

17. ASSIGNMENT OF PERSONNEL:

The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to District, as is evidenced in writing.

18. JURISDICTION AND VENUE:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

19. INDEMNIFICATION:

Contractor agrees to indemnify, defend, and hold District, its employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's negligence, recklessness or willful misconduct in the performance of this Contract.

20. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all Federal, State and local laws and resolutions: including, but not limited to the County of Marin Nuclear Free Zone and Living Wage Ordinance Copies of any of the above-referenced local laws and resolutions may be secured from the Contract Manager referenced in section 21. In addition, the following NOTICES may apply:

1. Pursuant to California Franchise Tax Board regulations, District will automatically withhold 7% from all payments made to vendors who are non-residents of California.
2. Contractor agrees to meet all applicable program access and physical accessibility requirements under State and Federal laws as may apply to services, programs or activities for the benefit of the public.
3. For Contracts involving any Federal Transit Administration grant funds, Exhibit D must be attached. Exhibit D provides all Federal Transit Administration Contract Provisions relevant to this Contract.
4. For Contracts involving any State or Federal grant funds, Exhibit E must be attached. Exhibit E shall consist of the printout results obtained by search of the System for Award Management at www.sam.gov.

Exhibit E - Debarment Certification

By signing and submitting this Contract, the Contractor is agreeing to abide by the debarment requirements as set out below.

- The certification in this clause is a material representation of fact relied upon by District.
- The Contractor shall provide immediate written notice to District if at any time the Contractor learns that its certification was erroneous or has become erroneous by reason of changed circumstances.
- Contractor certifies that none of its principals, affiliates, agents, representatives or contractors are excluded, disqualified or ineligible for the award of contracts by any Federal agency and Contractor further certifies to the best of its knowledge and belief, that it and its principals:
 - re not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal Department or Agency;
 - Have not been convicted within the preceding three-years of any of the offenses listed in 2 CFR 180.800(a) or had a civil judgment rendered against it for one of those offenses within that time period;
 - Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses listed in 2 CFR 180.800(a);
 - Have not had one or more public transactions (Federal, State, or Local) terminated within the preceding three-years for cause or default.

- The Contractor agrees by signing this Contract that it will not knowingly enter into any subcontract or covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
- Any subcontractor will provide a debarment certification that includes the debarment clause as noted in preceding bullets above, without modification.

21. NOTICES:

This Contract shall be managed and administered on District’s behalf by the Department Contract Manager named below. All invoices shall be submitted and approved by this Department and all notices shall be given to District at the following location:

Contract Manager: _____
 Dept./Location: _____
 Telephone No.: _____

Notices shall be given to Contractor at the following address:

Contractor: _____
 Address: _____
 Telephone No.: _____

22. ACKNOWLEDGEMENT OF EXHIBITS

Check applicable Exhibits

**CONTRACTOR’S
INITIALS**

<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/> Scope of Services	
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/> Fees and Payment	
<u>EXHIBIT C.</u>	<input checked="" type="checkbox"/> Insurance Reduction/Waiver	
<u>EXHIBIT D.</u>	<input type="checkbox"/> Federal Transit Administration Contract Provisions	
<u>EXHIBIT E.</u>	<input type="checkbox"/> Contractor’s Debarment Certification	
<u>EXHIBIT F.</u>	<input type="checkbox"/> Subcontractor’s Debarment Certification	

IN WITNESS WHEREOF, the parties have executed this Contract on the date first above written.

CONTRACTOR

By: _____
 Name: _____
 Title: _____

**APPROVED BY
MARIN COUNTY TRANSIT DISTRICT:**

By: _____

=====

COUNTY COUNSEL REVIEW AND APPROVAL (required if template content has been modified)

County Counsel: _____ **Date:** _____

EXHIBIT "A"

SCOPE OF SERVICES

The pr

- Client and Stakeholders Kickoff Meeting
 - Site Visit - A site visit can be combined with a kickoff meeting, where the Owner, the Tenant, and the Design Team representatives can confirm existing conditions.
 - Scope of Work and Services - Confirm the scope of work, boundaries of the project, and required consulting services.
 - Budget - Discuss and confirm the project budget. The budget can be a fixed number, or an initial number which might change due to tenant and owner requirements.
 - Schedule - Discuss and confirm the project schedule.
 - Program Creation / Confirmation - Some program information is contained in the RFP document package, yet if the tenant and owner can confirm additional space allocation, functional relationships, and equipment requirements, the Architect can have additional direction to the design. The stakeholders can also discuss any objectives or goals that the owner or tenant may have that are related to the project, for example, future use of the property, maintenance, or branding.
- Preliminary Design
 - Design Drawings - Design drawings will be development from conceptual sketches to Design Development presentation drawings that can be submitted for approval.
 - Cost Estimate - A preliminary cost estimate will confirm to the Owner that the design is on the right track to meet their budget goals.
 - Regulatory Approval Research - Working with the Owner, G/A can determine the approach and scheduling for any site-related, planning, and building department approvals.
 - Meeting / Presentation with Stakeholders - Upon preliminary approval from the owner, G/A can provide a presentation aimed at achieving consensus among the stakeholders.
- Construction Documents
 - Proceed from approved Preliminary Design - Construction Documents, suitable for bidding, will proceed.
 - Cost Estimate
 - Building Plan Check
 - 100% Contract Bid Package

EXHIBIT "B"

FEES AND PAYMENT SCHEDULE (required)

DISTRICT shall pay CONTRACTOR as follows:

- (1) CONTRACT RATES. DISTRICT shall pay CONTRACTOR based on the rate table below and billed in quarter hours. CONTRACTOR shall submit requests for payment via invoice net 30 days following provision of services.

	Principal Architect	Project Manager Architecture	Architectural Professional	Structural Engineer	Mechanical Engineer	Mechanical Design Engineer	Electrical Engineer	Total Hours	Total Fee
Preliminary Design	195	165	140	215	200	130	150		
Construction Documents	50	118	144	12	11	11	20	366	\$58,590
TOTALS	91	230	282	42	26	41	68	780	\$124,935

Meetings: Typical meetings are included. Additional meetings will be charged at hourly rate including 1 hour for travel per person.

Project Management: Project Management is included in total hours and fee.

Conceptual Design: Concept sketches are included in Preliminary Design phase.

Permitting: Permitting is included in the total hours and total fee.

The above fee is for design only, if Bidding and Construction period services are required, it will require additional services.

- (2) MILEAGE. DISTRICT shall not pay CONTRACTOR for travel by private, leased or hired vehicles as required by this Contract.
- (3) TRAVEL COSTS. DISTRICT shall not pay CONTRACTOR for meals, lodging, or other travel costs not included in this Contract.
- (4) AUTHORIZATION REQUIRED. Services performed by CONTRACTOR and not authorized in this Contract shall not be paid for DISTRICT. Payment for additional services shall be made to CONTRACTOR by DISTRICT if, and only if, this Contract is amended by both parties in advance of performing additional services.
- (5) MAXIMUM CONTRACT AMOUNT. The maximum term of this Contract is 1 year. The maximum amount payable to Contractor under this Contract for this period shall not exceed \$124,935.

EXHIBIT "C"

INSURANCE REDUCTION/WAIVER (if applicable)

CONTRACTOR: _____

CONTRACT TITLE: _____

Contractor's professional liability insurance may be provided, in part, by self-insurance or large deductible as long as contractor provides: (1) evidence to the District that contractor has segregated amounts in a special insurance reserve fund meeting the contract's insurance requirements and restricted specifically to this project or (2) contractor's general insurance reserves are adequate to provide the necessary coverage and the Marin County Transit District may conclusively rely thereon.

This statement shall accompany all requests for a reduction/waiver of insurance requirements. Please check the box

if a waiver is requested or fill in the reduced coverage(s) where indicated below:

	<i>Check Where Applicable</i>	<i>Requested Limit Amount</i>	<i>CAO Use Only</i>
General Liability Insurance	<input type="checkbox"/>	\$	
Automobile Liability Insurance	<input type="checkbox"/>	\$	
Workers' Compensation Insurance	<input type="checkbox"/>		
Professional Liability Deductible	<input type="checkbox"/>	\$	

Please set forth the reasons for the requested reductions or waiver.

Contract Manager Signature:

Date:
