

STANDARD CONTRACT
(Purchase of Services - Long Form)

Number
Fund/Org# 7521
Account # 68333
Other #

1. Contract Identification.

Department: Public Works

Subject: Grazing Implementation Study

2. Parties. The County of Contra Costa, California (County), for its Department named above, and the following named Contractor mutually agree and promise as follows:

Contractor: LSA Associates, Inc.

Capacity: Contractor

Address: 157 Park Place, Pt. Richmond, CA 94801

3. Term. The effective date of this Contract is January 1, 2012. It terminates on December 31, 2014 unless sooner terminated as provided herein.

4. Payment Limit. County's total payments to Contractor under this Contract shall not exceed \$ 467,000.00.

5. County's Obligations. County shall make to the Contractor those payments described in the Payment Provisions attached hereto which are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

6. Contractor's Obligations. Contractor shall provide those services and carry out that work described in the Service Plan attached hereto which is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

7. General and Special Conditions. This Contract is subject to the General Conditions and Special Conditions (if any) attached hereto, which are incorporated herein by reference.

8. Project. This Contract implements in whole or in part the following described Project, the application and approval documents of which are incorporated herein by reference:

Contractor shall assist County staff to implement a scientific study to compare the safety, efficacy, and costs associated with the traditional vegetation management treatment regime with sheep and goat grazing.

9. Legal Authority. This Contract is entered into under and subject to the following legal authorities:

Government Code Section 31000

10. Signatures. These signatures attest the parties' agreement hereto:

COUNTY OF CONTRA COSTA, CALIFORNIA

BOARD OF SUPERVISORS	ATTEST: Clerk of the Board of Supervisors
By _____ Chair/Designee	By _____ Deputy

CONTRACTOR

Name of business entity: LSA Associates, Inc.	Name of business entity: LSA Associates, Inc.
By <u>Les Card</u> (Signature of individual or officer)	By <u>Malcolm J. Sprout</u> (Signature of individual or officer)
<u>LES CARD, CEO</u> (Print name and title A, if applicable)	<u>Malcolm J. Sprout, Asst. Secretary</u> (Print name and title B, if applicable)

Note to Contractor: For Corporations (profit or nonprofit), the contract must be signed by two officers. Signature A must be that of the president or vice-president and Signature B must be that of the secretary or assistant secretary (Civil Code Section 1190 and Corporations Code Section 313). All signatures must be acknowledged as set forth on Form L-2.

ACKNOWLEDGMENT

STATE OF CALIFORNIA)

Orange)
COUNTY OF ~~CONTRA COSTA~~)

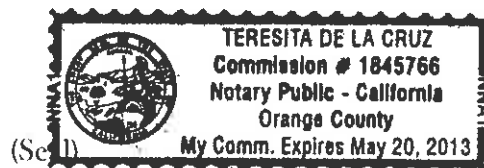
On 12/16/2011, before me, Teresita De la Cruz
(insert name and title of the officer), personally appeared Les Card and Malcolm S. Sprout

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ ~~she~~ they executed the same in ~~his~~ ~~her~~ their authorized capacity(ies), and that by ~~his~~ ~~her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS MY HAND AND OFFICIAL SEAL.

Teresita De la Cruz
Signature



ACKNOWLEDGMENT (by Corporation, Partnership, or Individual)
(Civil Code §1189)

APPROVALS

RECOMMENDED BY DEPARTMENT

By: R. [Signature]
Designee

FORM APPROVED
COUNTY COUNSEL

By: [Signature]
Deputy County Counsel
Eric Gelston

APPROVED: COUNTY ADMINISTRATOR

By: _____
Designee

SERVICE PLAN OUTLINE
(Purchase of Services - Long Form)

Number _____

LSA Associates, Inc.
Streambank Vegetation Management Study
Proj. No. 7521-6D-8333

I. OVERVIEW

This Agreement is between **LSA Associates, Inc.** (Contractor) and **Contra Costa County** on behalf of the **Public Works Department** (Dept.) to provide vegetation monitoring, rangeland monitoring, water quality monitoring, data analysis, and report writing services for the **Streambank Vegetation Management Study (Project)**, **Project Number 7521-6D-8333**, on Walnut Creek in central Contra Costa County.

Contra Costa County Flood Control and Water Conservation District (FCD) manages approximately 72 miles of streams, over $\frac{3}{4}$ support vegetation that must be managed to allow for water to flow during winter storm events and prevent fires from spreading to adjacent development during the summer. The FCD uses herbicides to manage streambank vegetation on the majority of the modified earthen stream channels. Community interest and increasing government regulations are encouraging the FCD to consider alternative vegetation management techniques. Mechanical mowing is costly and ineffective. The FCD is considering using grazing animals (sheep and goats) as alternative vegetation management techniques for streambank vegetation. The FCD intends to implement a study to assess the safety, efficacy, and cost effectiveness of herbicide applications, sheep grazing, and goat grazing as methods to manage streambank vegetation for flood water conveyance, fire fuel loads, and ecological health of the FCD's stream-based facilities.

The Dept. has determined that Contractor is qualified to perform monitoring, data analysis, and report writing necessary for the Project. Dept. Environmental staff will contact the Contractor within five (5) working days of contract approval to commence environmental work identified below.

II. DEPT. CONTACT INFORMATION:

All reports shall be submitted to:

Cece Sellgren, Environmental Planner
Contra Costa County Public Works Department
255 Glacier Dr.
Martinez, CA 94553

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Contractor

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III. SCOPE OF WORK

The Contractor shall assist Dept. staff with the implementation of a grazing study on Walnut Creek in Concord, CA which will compare sheep and goat grazing with the traditional herbicide application methods used by the Dept. The study will consist of two blocks, each containing 3 replicate plots of three treatments (herbicide application, goat grazing, and sheep grazing) – for a total of nine plots in each block. Each treatment plot will be 0.5 acres in size and will encompass the width of the channel (top of bank to top of bank), including the low flow channel. Herbicide treatment shall occur in December or January, depending upon weather and vegetation growth. Grazing treatments shall occur in the spring, prior to annual vegetation producing seeds – March through May, depending upon weather and vegetation growth. The study shall be conducted over a three year period.

The Contractor shall coordinate the grazing study with Dept. staff and the grazing contractor(s), monitor vegetation, monitor soil erosion, monitor water quality, conduct data analysis (including statistical analysis) and prepare reports.

The Contractor shall provide services as follows:

A. *Coordinate with Dept. Staff and Contract Grazers to Implement the Grazing Study*

1. Coordinate with Dept. staff and grazing contractor(s) to establish exact locations of grazing blocks and plots and mark them in the field.
2. Coordinate with Dept. staff to survey, locate, and install permanent line-point transect markers on each bank.
3. Coordinate with Dept. staff and grazing contractor(s) to establish holding pens for livestock when not participating in the grazing study.
4. Coordinate with Dept. staff and grazing contractor(s) to establish initial stocking rates.

B. *Monitor vegetation and bare soil to determine the responses of the vegetation and soil to the vegetation treatments*

1. Using the Line-Point Intercept, Comparative Yield, and Stubble Heights Methods the Contractor shall monitor vegetation and bare ground prior to

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grazing and/or herbicide treatments, at the end of the spring grazing treatments, and prior to the onset of the subsequent fall rains.

- a) For the Line Point Intercept Method: Contractor shall establish one line-point transect per plot that runs from the top of the bank across the stream channel to the top of the other bank. At one-meter intervals the Contractor shall place the tip of a pole on the ground, such that the pole is vertical. The Contractor shall note the ground substrate, each plant species that touches the vertical pole, and the height of the tallest plant that touches the pole. The pole shall be placed at one meter increments and data recorded every one meter.
- b) For the Comparative Yield Method: The Contractor shall visually assess the treatment block and choose representative areas that demonstrate the most (Rank = 5), least (rank = 1), and middle amounts (Rank = 3) of vegetation biomass. The Contractor shall then choose representative plots for amounts of biomass between the least and middle amounts (Rank = 2) and the most and middle amounts (Rank = 4). After choosing the five standard ranks per block, the Contractor shall visually assess and record the rank 10 samples per treatment plot.
- c) For the Stubble Height Method: Contractor shall measure average vegetation height at 10 locations per block for the stubble height method. Stubble height shall be measured at random locations throughout each treatment plot. Stubble height shall be measured concurrently with the comparative rank yield sampling.

C. *Monitor water quality to determine potential effects of applying herbicides and grazing stream banks upon several parameters of water quality within the stream.*

1. Contractor shall take *in situ* samples using a field probe and grab samples for later laboratory analysis prior to vegetation treatments and either near the end of the treatment (for grazing treatments) or immediately after the vegetation treatment (for herbicide applications).
2. The following attributes shall be measured *in situ*:
 - a) Time of day, stream flow, air and water temperature, pH, conductivity, turbidity, salinity, specific conductance

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3. The following chemical attributes shall be measured through grab samples taken in the field and sent to a local lab of the Contractor's choosing. Lab analysis shall be conducted through accepted Environmental Protection Agency or equivalent methods.
 - a) Fecal coliform (a measure of bacteria levels in the water), NH_3/NH_4 (a measure of animal urine in the water)
 - b) Glyphosate, Triclopyr, POE nonylphenol, Dodecylbenzene, Isopropyl alcohol – chemical constituents of the herbicide mix applied to streambanks

D. Enter data and conduct statistical analysis

1. Contractor shall enter data into computer database software compatible with Microsoft Excel. All data entry shall be verified by the contractor.
2. Contractor shall conduct statistical analysis on data to determine effects of the different vegetation management treatments upon vegetation, soils, and water quality
 - a) Type of statistical test shall be decided jointly by the Contractor and the County
 - b) Levels of significance shall be set at 10% error ($\alpha = 0.1$)

E. Write reports

1. Contractor shall provide water quality data from *in situ* measurements and lab analysis via e-mail to the County on a weekly basis while the vegetation treatments are being conducted.
2. Contractor shall provide annual reports on each of the first two years of the study that summarize results and make recommendations regarding changes to experimental procedures for the next year's investigation.
 - a) Contractor shall provide a draft report by December 15 of the year in which the study was conducted.
 - b) Contractor shall provide a final annual report within one month of receipt of comments from the County.

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**Streambank Vegetation Management Study
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3. Contractor shall provide a final report that summarizes the results of the entire study, summarizes the issues findings regarding the efficacy, and cost effectiveness of the three vegetation management treatments, and makes recommendations to the County regarding potential uses of each of the three vegetation management treatments.
 - a) Contractor shall provide a draft final report by January 15 of the year after the completion of the grazing study.
 - b) Contractor shall provide the final draft of the final report within one month of receiving comments from County staff. Contractor shall submit both electronic and paper copies of the final report.

IV. PAYMENT DEMANDS

The Contractor shall submit a monthly invoice for services provided. The Contractor shall describe the work performed and list the employee categories, hours, and rates as set forth form (P-1) Payment Provisions, and Appendices A and B.

A. Invoicing

See **Appendix A** (Professional Services Payment Rates) and **Appendix B** (Project Personnel) for rates that will be authorized for payment.

1. Rates shall remain in effect for the duration of the contract.
2. Monthly invoices shall be submitted for payment, based on work completed.
3. Monthly invoices shall reference on each invoice:
 - a) Invoice number,
 - b) Month and Year that work was performed,
 - c) Project Name and Project Number, and
 - d) Dept. Project Manager
4. Allowable reimbursable items must have;
 - a) Mileage;
 - 1) Date of travel
 - 2) List amount of miles multiplied by the approved contract mileage rate (current IRS approved mileage rate)
 - b) Receipts or documentation for back up for reimbursable items

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R. [Signature]
County Dept.

PAYMENT PROVISIONS
(Fee Basis Contracts - Long and Short Form)

Number

1. **Payment Amounts.** Subject to the Payment Limit of this Contract and subject to the following Payment Provisions, County will pay Contractor the following fee as full compensation for all services, work, expenses or costs provided or incurred by Contractor:

[Check one alternative only.]

- ☒ a. \$ monthly, or
- ☐ b. \$ per unit, as defined in the Service Plan, or
- ☐ c. \$ after completion of all obligations and conditions herein.
- ☐ d. Other: .

2. **Payment Demands.** Contractor shall submit written demands for payment on County Demand Form D-15 in the manner and form prescribed by County. Contractor shall submit said demands for payment no later than 30 days from the end of the month in which the contract services upon which such demand is based were actually rendered. Upon approval of payment demands by the head of the County Department for which this Contract is made, or his designee, County will make payments as specified in Paragraph 1. (Payment Amounts) above.
3. **Penalty for Late Submission.** If County is unable to obtain reimbursement from the State of California as a result of Contractor's failure to submit to County a timely demand for payment as specified in Paragraph 2. (Payment Demands) above, County shall not pay Contractor for such services to the extent County's recovery of funding is prejudiced by the delay even though such services were fully provided.
4. **Right to Withhold.** County has the right to withhold payment to Contractor when, in the opinion of County expressed in writing to Contractor, (a) Contractor's performance, in whole or in part, either has not been carried out or is insufficiently documented, (b) Contractor has neglected, failed or refused to furnish information or to cooperate with any inspection, review or audit of its program, work or records, or (c) Contractor has failed to sufficiently itemize or document its demand(s) for payment.
5. **Audit Exceptions.** Contractor agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate county, state or federal audit agencies resulting from its performance of this Contract. Within 30 days of demand, Contractor shall pay County the full amount of County's obligation, if any, to the state and/or federal government resulting from any audit exceptions, to the extent such are attributable to Contractor's failure to perform properly any of its obligations under this Contract.

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Streambank Vegetation Management Study

Project Number 7421 - 6D-8333

LSA PERSONNEL Names, Titles, and Billing Rates

	Billing Rate (\$ per hour)
<i>Pt. Richmond Office</i>	
ASSOCIATE/ PROJECT MANAGER	135
ASSOCIATE/WATER QUALITY TEAM LEADER	115
SOIL SCIENTIST	100
BIOLOGIST	90
BIOLOGIST/BOTANIST	80
SENIOR BIOLOGIST	90
SENIOR BIOLOGIST/BOTANIST	100
ASSOCIATE	85
PRINCIPAL- IN - CHARGE	160
SENIOR BIOLOGIST/GRAZING MANAGER	150
SENIOR BIOLOGIST	95
GRAPHICS TECHNICIAN	95
GIS SPECIALIST	90
BIOLOGIST	95
FIELD BOTANIST	90
GIS SPECIALIST/BIOLOGIST	90

LSA DIRECT EXPENSES 40544

	Unit Cost
Reproduction (8.5 x 11) B/W	\$.07 per page
Reproduction (8.5 x 11) Color	\$.40 per page
Reproduction (11 x 17) B/W	\$.10 per page
Reproduction (11 x 17) Color	\$.75 per page
CD Production	\$5.00 per CD
Plotting	\$3.75 per sf
Mileage On Road	\$.55 per mile
Mileage Off-Road	\$.66 per mile
GPS Unit	\$75.00 per day
Total Station Surveying Instrument	\$50.00 per day
Level (Laser or Optical)	\$25.00 per day
Laser Rangefinder	\$25.00 per day
Sound Meter	\$75.00 per day
Aerial Photo	Cost
Boat Rental	\$50.00/day
Water Quality Meter	\$25.00/day

GENERAL CONDITIONS
(Purchase of Services - Long Form)

1. **Compliance with Law.** Contractor is subject to and must comply with all applicable federal, state, and local laws and regulations with respect to its performance under this Contract, including but not limited to, licensing, employment, and purchasing practices; and wages, hours, and conditions of employment, including nondiscrimination.
2. **Inspection.** Contractor's performance, place of business, and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of the County, the State of California, and the United States Government.
3. **Records.** Contractor must keep and make available for inspection and copying by authorized representatives of the County, the State of California, and the United States Government, the Contractor's regular business records and such additional records pertaining to this Contract as may be required by the County.
 - a. **Retention of Records.** Contractor must retain all documents pertaining to this Contract for five years from the date of submission of Contractor's final payment demand or final Cost Report; for any further period that is required by law; and until all federal/state audits are complete and exceptions resolved for this Contract's funding period. Upon request, Contractor must make these records available to authorized representatives of the County, the State of California, and the United States Government.
 - b. **Access to Books and Records of Contractor, Subcontractor.** Pursuant to Section 1861(v)(1) of the Social Security Act, and any regulations promulgated thereunder, Contractor must, upon written request and until the expiration of five years after the furnishing of services pursuant to this Contract, make available to the County, the Secretary of Health and Human Services, or the Comptroller General, or any of their duly authorized representatives, this Contract and books, documents, and records of Contractor necessary to certify the nature and extent of all costs and charges hereunder.

Further, if Contractor carries out any of the duties of this Contract through a subcontract with a value or cost of \$10,000 or more over a twelve-month period, such subcontract must contain a clause to the effect that upon written request and until the expiration of five years after the furnishing of services pursuant to such subcontract, the subcontractor must make available to the County, the Secretary, the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents, and records of the subcontractor necessary to verify the nature and extent of all costs and charges thereunder.

This provision is in addition to any and all other terms regarding the maintenance or retention of records under this Contract and is binding on the heirs, successors, assigns and representatives of Contractor.

4. **Reporting Requirements.** Pursuant to Government Code Section 7550, Contractor must include in all documents and written reports completed and submitted to County in accordance with this Contract, a separate section listing the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of each such document or written report. This section applies only if the Payment Limit of this Contract exceeds \$5,000.


Contractor


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GENERAL CONDITIONS
(Purchase of Services - Long Form)

5. **Termination and Cancellation.**

a. **Written Notice.** This Contract may be terminated by either party, in its sole discretion, upon thirty-day advance written notice thereof to the other, and may be cancelled immediately by written mutual consent.

b. **Failure to Perform.** County, upon written notice to Contractor, may immediately terminate this Contract should Contractor fail to perform properly any of its obligations hereunder. In the event of such termination, County may proceed with the work in any reasonable manner it chooses. The cost to County of completing Contractor's performance will be deducted from any sum due Contractor under this Contract, without prejudice to County's rights to recover damages.

c. **Cessation of Funding.** Notwithstanding any contrary language in Paragraphs 5 and 11, in the event that federal, state, or other non-County funding for this Contract ceases, this Contract is terminated without notice.

6. **Entire Agreement.** This Contract contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Contract will be deemed to exist or to bind any of the parties hereto.

7. **Further Specifications for Operating Procedures.** Detailed specifications of operating procedures and budgets required by this Contract, including but not limited to, monitoring, evaluating, auditing, billing, or regulatory changes, may be clarified in a written letter signed by Contractor and the department head, or designee, of the county department on whose behalf this Contract is made. No written clarification prepared pursuant to this Section will operate as an amendment to, or be considered to be a part of, this Contract.

8. **Modifications and Amendments.**

a. **General Amendments.** In the event that the Payment Limit of this Contract is \$100,000 or less, this Contract may be modified or amended only by a written document executed by Contractor and the County's Purchasing Agent or the Contra Costa County Board of Supervisors, subject to any required state or federal approval. In the event that the Payment Limit of this Contract exceeds \$100,000, this Contract may be modified or amended only by a written document executed by Contractor and the Contra Costa County Board of Supervisors or, after Board approval, by its designee, subject to any required state or federal approval.

b. **Minor Amendments.** The Payment Provisions and the Service Plan may be amended by a written administrative amendment executed by Contractor and the County Administrator (or designee), subject to any required state or federal approval, provided that such administrative amendment may not increase the Payment Limit of this Contract or reduce the services Contractor is obligated to provide pursuant to this Contract.

9. **Disputes.** Disagreements between County and Contractor concerning the meaning, requirements, or performance of this Contract shall be subject to final written determination by the head of the county department for which this Contract is made, or his designee, or in accordance with the applicable procedures (if any) required by the state or federal government.


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GENERAL CONDITIONS
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10. **Choice of Law and Personal Jurisdiction.**

- a. This Contract is made in Contra Costa County and is governed by, and must be construed in accordance with, the laws of the State of California.
- b. Any action relating to this Contract must be instituted and prosecuted in the courts of Contra Costa County, State of California.

11. **Conformance with Federal and State Regulations and Laws.** Should federal or state regulations or laws touching upon the subject of this Contract be adopted or revised during the term hereof, this Contract will be deemed amended to assure conformance with such federal or state requirements.

12. **No Waiver by County.** Subject to Paragraph 9. (Disputes) of these General Conditions, inspections or approvals, or statements by any officer, agent or employee of County indicating Contractor's performance or any part thereof complies with the requirements of this Contract, or acceptance of the whole or any part of said performance, or payments therefor, or any combination of these acts, do not relieve Contractor's obligation to fulfill this Contract as prescribed; nor is the County thereby prevented from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Contract.

13. **Subcontract and Assignment.** This Contract binds the heirs, successors, assigns and representatives of Contractor. Prior written consent of the County Administrator or his designee, subject to any required state or federal approval, is required before the Contractor may enter into subcontracts for any work contemplated under this Contract, or before the Contractor may assign this Contract or monies due or to become due, by operation of law or otherwise.

14. **Independent Contractor Status.** The parties intend that Contractor, in performing the services specified herein, is acting as an independent contractor and that Contractor will control the work and the manner in which it is performed. This Contract is not to be construed to create the relationship between the parties of agent, servant, employee, partnership, joint venture, or association. Additionally, Contractor is not entitled to participate in any pension plan, workers' compensation plan, insurance, bonus, or similar benefits County provides to its employees. In the event that County exercises its right to terminate this Contract, Contractor expressly agrees that it will have no recourse or right of appeal under any rules, regulations, ordinances, or laws applicable to employees.

15. **Conflicts of Interest.** Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Contract, no person having any such interests will be employed by Contractor. If requested to do so by County, Contractor will complete a "Statement of Economic Interest" form and file it with County and will require any other person doing work under this Contract to complete a "Statement of Economic Interest" form and file it with County. Contractor covenants that Contractor, its employees and officials, are not now employed by County and have not been so employed by County within twelve months immediately preceding this Contract; or, if so employed, did not then and do not now occupy a position that would create a conflict of interest under Government Code section 1090. In addition to any indemnity provided by Contractor in this Contract, Contractor will indemnify,


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defend, and hold the County harmless from any and all claims, investigations, liabilities, or damages resulting from or related to any and all alleged conflicts of interest.

16. **Confidentiality.** Contractor agrees to comply and to require its officers, partners, associates, agents and employees to comply with all applicable state or federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that:

a. All applications and records concerning any individual made or kept by Contractor or any public officer or agency in connection with the administration of or relating to services provided under this Contract will be confidential, and will not be open to examination for any purpose not directly connected with the administration of such service.

b. No person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service. Contractor agrees to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.

17. **Nondiscriminatory Services.** Contractor agrees that all goods and services under this Contract will be available to all qualified persons regardless of age, gender, race, religion, color, national origin, ethnic background, disability, or sexual orientation, and that none will be used, in whole or in part, for religious worship.

18. **Indemnification.** Contractor will defend, indemnify, save, and hold harmless County and its officers and employees from any and all claims, demands, losses, costs, expenses, and liabilities for any damages, fines, sickness, death, or injury to person(s) or property, including any and all administrative fines, penalties or costs imposed as a result of an administrative or quasi-judicial proceeding, arising directly or indirectly from or connected with the services provided hereunder that are caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, subcontractors, or any persons under its direction or control. If requested by County, Contractor will defend any such suits at its sole cost and expense. If County elects to provide its own defense, Contractor will reimburse County for any expenditures, including reasonable attorney's fees and costs. Contractor's obligations under this section exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor is not required to indemnify County for the proportion of liability a court determines is attributable to the sole negligence or willful misconduct of the County, its officers and employees. This provision will survive the expiration or termination of this Contract.

19. **Insurance.** During the entire term of this Contract and any extension or modification thereof, Contractor shall keep in effect insurance policies meeting the following insurance requirements unless otherwise expressed in the Special Conditions:

a. **Commercial General Liability Insurance.** For all contracts where the total payment limit of the contract is \$500,000 or less, Contractor will provide commercial general liability insurance, including coverage for business


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losses and for owned and non-owned automobiles, with a minimum combined single limit coverage of \$500,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance must be endorsed to include County and its officers and employees as additional insureds as to all services performed by Contractor under this Contract. Said policies must constitute primary insurance as to County, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance program(s) will not be required to contribute to any loss covered under Contractor's insurance policy or policies. For all contracts where the total payment limit is greater than \$500,000, the aforementioned insurance coverage to be provided by Contractor must have a minimum combined single limit coverage of \$1,000,000, and Contractor must provide County with a copy of the endorsement making the County an additional insured on all commercial general liability, worker's compensation, and, if applicable, all professional liability insurance policies as required herein no later than the effective date of this Contract.

b. **Workers' Compensation.** Contractor must provide workers' compensation insurance coverage for its employees.

c. **Certificate of Insurance.** The Contractor must provide County with (a) certificate(s) of insurance evidencing liability and worker's compensation insurance as required herein no later than the effective date of this Contract. If Contractor should renew the insurance policy(ies) or acquire either a new insurance policy(ies) or amend the coverage afforded through an endorsement to the policy at any time during the term of this Contract, then Contractor must provide (a) current certificate(s) of insurance.

d. **Additional Insurance Provisions.** The insurance policies provided by Contractor must include a provision for thirty (30) days written notice to County before cancellation or material change of the above-specified coverage.

20. **Notices.** All notices provided for by this Contract must be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notices to County must be addressed to the head of the county department for which this Contract is made. Notices to Contractor must be addressed to the Contractor's address designated herein. The effective date of notice is the date of deposit in the mails or of other delivery, except that the effective date of notice to County is the date of receipt by the head of the county department for which this Contract is made.

21. **Primacy of General Conditions.** In the event of a conflict between the General Conditions and the Special Conditions, the General Conditions govern unless the Special Conditions or Service Plan expressly provide otherwise.

22. **Nonrenewal.** Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Contract will be purchased by County under a new contract following expiration or termination of this Contract, and Contractor waives all rights or claims to notice or hearing respecting any failure to continue purchasing all or any such services from Contractor.

23. **Possessory Interest.** If this Contract results in Contractor having possession of, claim or right to the possession of land or improvements, but does not vest ownership of the land or improvements in the same person, or if this


Contractor


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Contract results in the placement of taxable improvements on tax exempt land (Revenue & Taxation Code Section 107), such interest or improvements may represent a possessory interest subject to property tax, and Contractor may be subject to the payment of property taxes levied on such interest. Contractor agrees that this provision complies with the notice requirements of Revenue & Taxation Code Section 107.6, and waives all rights to further notice or to damages under that or any comparable statute.

24. **No Third-Party Beneficiaries.** Nothing in this Contract may be construed to create, and the parties do not intend to create, any rights in third parties.

25. **Copyrights and Rights in Data.** Contractor will not publish or transfer any materials produced or resulting from activities supported by this Contract without the express written consent of the County Administrator. If any material is subject to copyright, County reserves the right to copyright, and Contractor agrees not to copyright such material. If the material is copyrighted, County reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such materials, in whole or in part, and to authorize others to do so.

26. **Endorsements.** In its capacity as a contractor with Contra Costa County, Contractor will not publicly endorse or oppose the use of any particular brand name or commercial product without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not publicly attribute qualities or lack of qualities to a particular brand name or commercial product in the absence of a well-established and widely accepted scientific basis for such claims or without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not participate or appear in any commercially produced advertisements designed to promote a particular brand name or commercial product, even if Contractor is not publicly endorsing a product, as long as the Contractor's presence in the advertisement can reasonably be interpreted as an endorsement of the product by or on behalf of Contra Costa County. Notwithstanding the foregoing, Contractor may express its views on products to other contractors, the Board of Supervisors, County officers, or others who may be authorized by the Board of Supervisors or by law to receive such views.

27. **Required Audit.** (A) If Contractor is funded by \$500,000 or more in federal grant funds in any fiscal year from any source, Contractor must provide to County, at Contractor's expense, an audit conforming to the requirements set forth in the most current version of Office of Management and Budget Circular A-133. (B) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, but such grant imposes specific audit requirements, Contractor must provide County with an audit conforming to those requirements. (C) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, Contractor is exempt from federal audit requirements for that year; however, Contractor's records must be available for and an audit may be required by, appropriate officials of the federal awarding agency, the General Accounting Office (GAO), the pass-through entity and/or the County. If any such audit is required, Contractor must provide County with such audit. With respect to the audits specified in (A), (B) and (C) above, Contractor is solely responsible for arranging for the conduct of the audit, and for its cost. County may withhold the estimated cost of the audit or 10 percent of the contract amount, whichever is greater, or the final payment, from Contractor until County receives the audit from Contractor.


Contractor


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28. **Authorization.** Contractor, or the representative(s) signing this Contract on behalf of Contractor, represents and warrants that it has full power and authority to enter into this Contract and to perform the obligations set forth herein.

29. **No Implied Waiver.** The waiver by County of any breach of any term or provision of this Contract will not be deemed to be a waiver of such term or provision or of any subsequent breach of the same or any other term or provision contained herein.


Contractor


County Dept.