

**INTERAGENCY AGREEMENT
(County Provides Services)**

Number
Fund/Org# 4295
Account # 2310
Other #

1. **Contract Identification.**

Department: Department Of Information Technology (DoIT)

Subject: County DoIT to provide radio services, installations, and maintenance of radio sites and 911 Dispatch Centers that are part of the East Bay Regional Communications System.

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

Agency: East Bay Regional Communications System Authority

Capacity: A California joint powers authority

Address: 4985 Broder Blvd. Dublin, CA 94568

3. **Term.** The effective date of this Agreement is December 4, 2012 and it terminates on December 3, 2015, unless sooner terminated as provided herein.

4. **Payment Limit.** Agency's total payments to County under this Agreement shall not exceed \$400,000.00.

5. **County's Obligations.** County 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.

6. **Agency's Obligations.** Agency shall pay County for its provision of the services as set forth Section C of the Service Plan, and perform other obligations as specified in the Service Plan, subject to all the terms and conditions contained or incorporated herein.

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

8. **Project.** This Agreement implements in whole or in part the following described Project: East Bay Regional Communications System Authority communications project.

9. **Legal Authority.** This Agreement is entered into under and subject to the following legal authorities: Government Code Section 26227.

[Signatures appear on following page.]

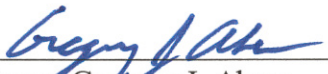
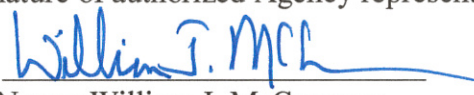
10. **Signatures**. These signatures attest the parties' agreement hereto:

COUNTY OF CONTRA COSTA, CALIFORNIA

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

AGENCY

East Bay Regional Communications System Authority

Signature of authorized Agency representative	Signature of authorized Agency representative
By:  Name: <u>Gregory J. Ahern</u> Title: <u>Alameda County Sheriff</u> <u>EBRCSA Board Chair</u>	By:  Name: <u>William J. McCammon</u> Title: <u>EBRCSA Executive Director</u>

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On _____, before me, _____
(insert name and title of the officer), personally appeared _____

_____ 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.

Signature

(Seal)

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

APPROVALS

RECOMMENDED BY DEPARTMENT

FORM APPROVED
COUNTY COUNSEL

By: _____
Designee

By: _____
Deputy County Counsel

APPROVED: COUNTY ADMINISTRATOR

By: _____

Designee

SERVICE PLAN OUTLINE
(Purchase of Services - Long Form)

Number _____

SERVICE PLAN

A. County Obligations. County will provide the following services at East Bay Regional Communications System Authority ("EBRCSA") radio sites throughout Contra Costa County, and at the emergency operations center located in Dublin, Alameda County.

1. Installation and maintenance of P25 radio site land mobile radio hardware and software
2. Installation and maintenance services of microwave hardware and software.
3. Installation and maintenance of system and component monitoring equipment.
4. Installation and maintenance of radio site power supplies, generator, security systems, and other related equipment.
5. Installation, maintenance, planning, and engineering of radio shelter, tower or monopole, pathways, and related facilities.
6. Fleet map design, planning, training, and maintenance.
7. Site development services, which include site surveys, engineering, planning, coverage modeling, and specification development.
8. Installation and maintenance of dispatch consoles and console interface equipment.

With the prior written approval of EBRCSA, County may subcontract with third party service providers for the performance of services under this contract.

B. EBRCSA Obligations. EBRCSA will allow County to access its radio sites for the purpose of County performing the services called for under this contract.

C. Payment Provisions:

1. Labor Service Rates. County will be paid for its services according to the following hourly rates.
 - a. EBRCSA will pay County \$120 per hour (the "Regular Rate") for work performed by a Communications Equipment Specialist between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding County holidays ("Regular Hours").
 - b. EBRCSA will pay County at a rate equal to 1.5 times the Regular Rate for work performed by a Communications Equipment Specialist outside of Regular Hours.
 - c. County may increase the Regular Rate on an annual basis on July 1 of each year, but not in an amount in excess of five percent (5%) of the immediately preceding Regular Rate, and any such change will be effected by an amendment to this contract.
2. Materials and Third Party Vendor Charges. County will bill for materials used in performing services under this contract at its cost, and the materials will carry the manufacturer's warranty. County will bill for subcontractor services it uses to perform services under this contract at the cost any such third party service provider charges County.

Initials: _____
EBRCSA County

3. Invoices. County will submit said demands for payment no later than 60 days from the end of the month in which the contract services upon which such demand is based were actually rendered. EBRCSA will make payment in respect of invoices submitted within 30 days of receipt of an invoice.

Initials: _____
EBRCSA County

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,

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GENERAL CONDITIONS
(Purchase of Services - Long Form)

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.

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.

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GENERAL CONDITIONS
(Purchase of Services - Long Form)

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.

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.

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GENERAL CONDITIONS
(Purchase of Services - Long Form)

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

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GENERAL CONDITIONS
(Purchase of Services - Long Form)

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, 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,

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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 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.

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GENERAL CONDITIONS
(Purchase of Services - Long Form)

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

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GENERAL CONDITIONS
(Purchase of Services - Long Form)

person, or if this 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

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GENERAL CONDITIONS
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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.

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.

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SPECIAL CONDITIONS
(Purchase of Services - Long Form)

The following Special Conditions are hereby made part of the contract between Contra Costa County, and East Bay Regional Communications System Authority, a California Joint Powers Authority ("EBRCSA").

1. References in these Special Conditions to "Contractor" are deemed to be references to Contra Costa County, on behalf of its Department of Information Technology.

2. The General Conditions attached to this contract are hereby deleted in their entirety and replaced with the following:

"1. Compliance with Law. Each of Contractor and County are 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 EBRCSA.

3. Records. Contractor must keep and make available for inspection and copying by authorized representatives of EBRCSA, 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 EBRCSA.

4. Termination and Cancellation. 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.

5. 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.

6. 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 EBRCSA 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.

7. Modifications and Amendments. This Contract may be modified or amended only by a written document executed by EBRCSA and the Contra Costa County Board of Supervisors or, after

Initials:

EBRCSA

County

Board approval, by its designee, subject to any required state or federal approval.

8. Disputes. Disagreements between EBRCSA y 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 or her designee, or in accordance with the applicable procedures (if any) required by the state or federal government.

9. 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.

10. 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.

11. No Waiver by EBRCSA. Subject to Paragraph 8. (Disputes) of these Special Conditions, inspections or approvals, or statements by any officer, agent or employee of Contractor 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 EBRCSA 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.

12. Subcontract and Assignment. This Contract binds the heirs, successors, assigns and representatives of Contractor. Neither party may assign this Contract without the prior written approval of the other party.

13. Independent Contractor Status. This Contract is not to be construed to create the relationship between the parties of agent, servant, employee, partnership, joint venture, or association, and Contractor shall have no entitlement to participate in any pension plan, workers' compensation plan, insurance, bonus, or similar benefits provided by EBRCSA to its employees (if any), agents, officers, consultants or volunteers. In the event that EBRCSA 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.

14. 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 EBRCSA, Contractor will complete a "Statement of Economic Interest" form and file it with EBRCSA and will require any other person doing work under this Contract to complete a "Statement of Economic Interest" form and file it with EBRCSA.

Initials: _____
EBRCSA County

15. 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.

16. 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.

17. Indemnification.

a. Contractor Indemnification. Contractor will defend, indemnify, save, and hold harmless EBRCSA and its officers, agents and employees, if any, 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 EBRCSA, Contractor will defend any such suits at its sole cost and expense. If EBRCSA elects to provide its own defense, Contractor will reimburse EBRCSA for any expenditures, including reasonable attorneys' fees and costs. Contractor is not required to indemnify EBRCSA for the proportion of liability a court determines is attributable to the negligence or willful misconduct of EBRCSA, its officers, agents and employees, if any. This provision will survive the expiration or termination of this Contract.

b. EBRCSA Indemnification. EBRCSA will defend, indemnify, save, and hold harmless Contractor and its officers, agents and employees, if any, 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 EBRCSA, its officers, employees, agents, contractors, subcontractors, or any persons under its direction or control. If requested by Contractor, EBRCSA will defend any such suits at its sole cost and expense. If Contractor elects to provide its own defense, EBRCSA will reimburse Contractor for any expenditures, including reasonable attorneys' fees and costs. EBRCSA is not required to indemnify Contractor for the proportion of liability a court determines is attributable to the negligence or willful misconduct of Contractor, its officers, agents and employees, if any. This provision will survive the expiration or termination of this Contract.

18. Insurance. During the entire term of this Contract and any extension or modification thereof, Contractor shall keep in effect insurance policies meeting the insurance requirements set forth in Exhibit A attached hereto and incorporated herein by reference.

19. 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 Contractor must be addressed to the head of the county department for which this Contract is made. Notices to EBRCSA must be addressed to EBRCSA's address designated herein. The effective date of notice is the date of deposit in the mails

Initials: _____
EBRCSA County

or of other delivery, except that the effective date of notice to Contractor is the date of receipt by the head of the county department for which this Contract is made.

20. 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 EBRCSA 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.

21. 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 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.

22. 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.

23. 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 EBRCSA's Executive Director. If any material is subject to copyright, EBRCSA reserves the right to copyright, and Contractor agrees not to copyright such material. If the material is copyrighted, EBRCSA 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.

24. 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.

25. No Implied Waiver. The waiver by EBRCSA 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."

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EBRCSA County

EXHIBIT A

EBRCSA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) Required for all contractors with employees	WC: Statutory Limits EL: \$100,000 per accident for bodily injury or disease
D	Endorsements and Conditions: <ol style="list-style-type: none"> 1. ADDITIONAL INSURED: All insurance required above with the exception of Personal Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: the EBRCSA, its members, officers, agents, employees and representatives, as their respective interests may appear but only with respect to derivative or imputed liability arising out of the Insured's performance of services under this Agreement for the EBRCSA. 2. DURATION OF COVERAGE: All required insurance shall be maintained during the entire term of the Agreement with the following exception: Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until three (3) years following termination and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. 3. REDUCTION OR LIMIT OF OBLIGATION: All insurance policies shall be primary insurance to any insurance available to the Indemnified Parties and Additional Insured(s). Pursuant to the provisions of this Agreement, insurance effected or procured by Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties. 4. INSURER FINANCIAL RATING: Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the EBRCSA. Acceptance of Contractor's insurance by the EBRCSA shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of Contractor. 5. SUBCONTRACTORS: Contract shall include all subcontractors as an insured (covered party) under its policies and shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein. 6. JOINT VENTURES: If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by any one of the following methods: <ul style="list-style-type: none"> — Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured (covered party), or at minimum named as an "Additional Insured" on the other's policies. — Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured. 7. CANCELLATION OF INSURANCE: All required insurance shall be endorsed to provide thirty (30) days advance written notice to the County of cancellation. 8. CERTIFICATE OF INSURANCE: Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and reasonably satisfactory to the EBRCSA, evidencing that all required insurance coverage is in effect. The EBRCSA reserves the rights to require Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent to: <ul style="list-style-type: none"> - EBRCSA, Alameda County Office of Emergency Services, 4985 Broder Boulevard, Dublin, CA 94568, Attn: Executive Director. 	