

Attachment A

Board Contract Summary

BC _____ - _____

For use with Expenditure Contracts submitted to the Board for approval. Complete information below, print, obtain signature of authorized departmental representative, and submit this form, along with attachments, to the appropriate departments for signature. See also: *Auditor-Controller Intranet Policies->Contracts*.

D1.	Fiscal Year	18/19 and 19/20
D2.	Department Name	Public Works RRWMD
D3.	Contact Person	Travis Spier
D4.	Telephone	805-681-5626

K1.	Contract Type (check one): <input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Capital	
K2.	Brief Summary of Contract Description/Purpose	Provide Casual Labor
K3.	Department Project Number	054
K4.	Original Contract Amount	\$ 600,000
K5.	Contract Begin Date	January 1, 2019
K6.	Original Contract End Date	December 31, 2019
K7.	Amendment? (Yes or No)	No
K8.	- New Contract End Date	
K9.	- Total Number of Amendments	
K10.	- This Amendment Amount	\$
K11.	- Total Previous Amendment Amounts	\$
K12.	- Revised Total Contract Amount	\$ 600,000

B1.	Intended Board Agenda Date	December 4, 2018
B2.	Number of Workers Displaced (if any)	0
B3.	Number of Competitive Bids (if any)	2 proposals
B4.	Lowest Bid Amount (if bid)	\$399, 734.40
B5.	If Board waived bids, show Agenda Date	
	and Agenda Item Number	
B6.	Boilerplate Contract Text Changed? (If Yes, cite Paragraph)	Yes: Sec 4

F1.	Fund Number	1930
F2.	Department Number	054
F3.	Line Item Account Number	7460
F4.	Project Number (if applicable)	110100, 113300, 120000, 130100
F5.	Program Number (if applicable)	1101, 1133, 1200, 1301
F6.	Org Unit Number (if applicable)	
F7.	Payment Terms	Monthly

V1.	Auditor-Controller Vendor Number	
V2.	Payee/Contractor Name	22nd Century Technologies, Inc.
V3.	Mailing Address	220 Davidson Avenue, Suite 118
V4.	City State (two-letter) Zip (include +4 if known)	Somerset, NJ 08873
V5.	Telephone Number	888-998-7284
V6.	Vendor Contact Person	Sandeep Singh
V7.	Workers Comp Insurance Expiration Date	
V8.	Liability Insurance Expiration Date	
V9.	Professional License Number	
V10.	Verified by (print name of county staff)	

V11 Company Type (Check one): Individual Sole Proprietorship Partnership Corporation

I certify information is complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date: 10/30/18 Authorized Signature: _____

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and 22nd Century Technologies, Inc. with an address at 220 Davidson Avenue Suite 118, Somerset, New Jersey 08873 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Travis Spier, P.E. at phone number (805) 681-5626 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Sandeep Singh at phone number (888) 998-7284 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Travis Spier, P.E.
County of Santa Barbara Public Works Department
130 East Victoria Street Suite 100
Santa Barbara, CA 93101

To CONTRACTOR: 22nd Century Technologies, Inc.
220 Davidson Avenue Suite 118
Somerset, NJ 08873

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM

CONTRACTOR shall commence performance on January 1, 2019 and end performance upon completion, but no later than December 31, 2019 unless otherwise directed by COUNTY or unless earlier terminated. The Agreement

may be renewed for up to three (3) additional one (1) year periods at the same conditions by mutual consent in writing.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. TERMINATION

A. **By COUNTY.** COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.

1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.

2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
 3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

20. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

25. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

28. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

29. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and 22nd Century Technologies, Inc.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
Chair, Board of Supervisors

Date: _____

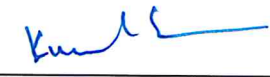
RECOMMENDED FOR APPROVAL:

Scott McGolpin, Director
PUBLIC WORKS

CONTRACTOR:

22ND CENTURY TECHNOLOGIES, INC.

By:  _____
Department Head

By:  _____
Authorized Representative

Name: _____
Kulpreet Singh

Title: _____
Director-Sales

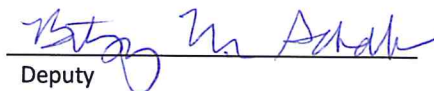
APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Theodore A. Fallati, CPA
Auditor-Controller

By:  _____
Deputy County Counsel

By:  _____
Deputy

APPROVED AS TO FORM:

Ray Aromatorio
Risk Management

By:  _____
Risk Management

EXHIBIT A

STATEMENT OF WORK

PROVIDE CASUAL LABOR

There are several types of jobs laborers will be asked to do. Each laborer should be able to accomplish the tasks listed here due to the fact that any one of the tasks will need to be done anytime during any one day.

1. On windy days, litter at our solid waste facilities gets blown around and can end up not being buried properly. It is the laborers' job to move litter to its proper location for burial. The work is needed sporadically and on-call, depending on weather conditions.
2. The South Coast Recycling and Transfer Station and the Santa Ynez Valley Recycling and Transfer Station have construction and demolition sorting processes in progress. The contract labor is required to sort recyclable material from the waste stream, which will include separating brush, wood, concrete, drywall, universal waste and other recyclable materials.
3. General maintenance duties may be assigned occasionally such as weed whacking, repairing water lines, and applying materials such as straw matting and waddles for winter preparedness.

This bid is to establish a contract with a supplier who will recruit, train, dispatch and supervise workers to accomplish the tasks mentioned above.

LOCATIONS

Tajiguas Landfill (14470 Calle Real, Goleta), Santa Ynez Valley Recycling and Transfer Station (4004 Foxen Canyon Road, Los Olivos), South Coast Recycling and Transfer Station (4430 Calle Real, Santa Barbara), and Baron Ranch, adjacent to Tajiguas Landfill.

CONTRACTOR'S RESPONSIBILITIES

On a typical day, CONTRACTOR is to provide seven (7) laborers and three (3) supervisors per day, up to eight hours per day, six days per week as needed, at the time and place designated by COUNTY for the periods of time COUNTY designates. If circumstances require, Contractor is to provide a maximum of twenty (20) laborers and three (3) supervisors per day, up to eight hours per day, six days per week as needed, at the time and place designated by COUNTY for the periods of time COUNTY designates. CONTRACTOR is to administer the employment of the personnel, including recruiting, selecting, arranging schedules, withholding proper taxes, paying wages, making employer contributions for FICA and federal and state unemployment taxes and any other applicable withholdings, perform background investigations, assure that workers are legal to work in the United States, and review and assure the maintenance of necessary licenses and other qualifications necessary for the services to be provided. CONTRACTOR will be responsible for scheduling CONTRACTOR'S personnel so that no employee overtime is charged to the County for regularly scheduled work (i.e. CONTRACTOR may need to have additional workers available to insure coverage for a six-day workweek). Should circumstances arise that the labor force is needed past the regularly scheduled eight hours of work, the site supervisor can authorize overtime in the amount of one and one-half times the standard hourly rate. CONTRACTOR will be responsible for all of CONTRACTOR's personnel having hazardous awareness training (8-hour training class) as well as Bloodborne Pathogen training. CONTRACTOR isto make sure that CONTRACTOR'S workers wear safety footwear that meets the following criteria: 1) Heavy natural leather uppers, with or without laces; 2) Uppers must completely cover and protect the ankles approximately 6 inches high; 3) Sole and heel to be without

nails (or adequately recessed nails), oil resistant, skid proof, non-conductive and puncture resistant; 4) Impact and compression – ASTM F2413-11 M I/75/C75; 5) Electrical Hazard – EH; and 6) Puncture Resistance - PR.

COUNTY will provide hand tools, small power tools and safety equipment including gloves, vests, hardhats, and eye protection, but no steel-toed boots. CONTRACTOR is to make sure that any OSHA regulation that pertains to CONTRACTOR'S type of labor force is met, including conducting biweekly safety ("tailgate") meetings. WORK AREA - Involves, but is not limited to, hand work on hillsides, creek beds, roadways, and on concrete or blacktop at the various locations.

Sandeep Singh shall be the individual(s) personally responsible for providing all services hereunder. CONTRACTOR may not substitute other persons without the prior written approval of CONTRACTOR's Designated Representative.

Suspension for Convenience. COUNTY may, without cause, order CONTRACTOR in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part for up to 30 days. COUNTY shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$600,000 with optional annual renewals of up to \$600,000 per year if renewed pursuant to Section 4 Term of the Agreement by mutual consent of the COUNTY and CONTRACTOR.

Not less than 90 calendar days prior to the end of the then-current contract period, CONTRACTOR may request in writing a price escalation based on an index, including but not limited to making employer contributions for FICA and federal and state unemployment taxes and any other applicable withholdings, minimum wage increase, etc. CONTRACTOR must submit documentation substantiating its request. COUNTY reserves the right either to accept or to reject in writing CONTRACTOR's request for a price escalation as part of COUNTY's consideration for the contract extension.

- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in EXHIBIT A as determined by COUNTY.
- C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

EXHIBIT B

ATTACHMENT B1 – SCHEDULE OF FEES

CONTRACTOR shall provide the services stated in this Agreement to the County from January 1, 2019 through December 31, 2019, at the following rates (hourly rates charged to County include an overhead charge of 42% for laborers/workers and 35% for supervisors.).

<u>Title Classification</u>	<u>Hourly Rate Charged to County</u>	<u>Hourly Rate Paid to Worker</u>
Labor\Worker	\$17.04	\$12.00
Supervisor	\$24.30	\$18.00

EXHIBIT B

ATTACHMENT B2 – ANCILLARY REQUIREMENTS

RESTRICTIONS

COUNTY is under no obligation to request, utilize or employ any certain extent or number of services, nor is COUNTY restricted, by reason of this contract, from employing personnel for our incidental needs by contracting with other Casual Labor suppliers.

ADJUSTMENT CLAUSE

Hourly rates bid are to be the maximum charged for the period of the contract, including any periods in which the contract is extended. However, CONTRACTOR may increase the rates set forth herein in proportion to any statutory increases which may be required by federal, state or local law commencing upon the effective date of such increase, including any increase which may be necessary due to the passage of any federal or state law mandating benefits for temporary employees. These charges include, but are not restricted to, Workers' Compensation Insurance, FICA, SUI, FUI and Minimum Wage increases. Such increases will be limited to the amounts or percentages common to the industry in the Santa Barbara County area, and will not be allowed to the extent CONTRACTOR'S experience rating exceeds the industry average for the Santa Barbara County area. No increase will be allowed without the advance written consent of the Public Works Department, upon written request and rationale by CONTRACTOR. Increases approved will be limited to direct verifiable costs and may not be used to supplement CONTRACTOR'S profits.

USAGE

Usage of service will be interspersed and periodic during the contract period. The number of workers could vary on a day-to-day basis. The need for a supervisor from CONTRACTOR will also vary, as County personnel may be available to perform the supervisory role.

USAGE REPORTS

CONTRACTOR must provide usage reports, in a format acceptable to the Resource Recovery and Waste Management Division, which compile all transactions with COUNTY under this contract. A sample usage report must be included with CONTRACTOR'S Reply.

REPORT FORMAT

CONTRACTOR must supply, on request, a spreadsheet of all services provided under the contract, including a monthly breakdown by title classification of hours and rates charged.

REPORT PRESENTATION

An initial report containing actual usage to date must be presented to the Resource Recovery and Waste Management Division no later than 60 days from contract commencement. An interim report (for the period from commencement of contract through 120 days prior to contract termination) must be presented to the Resource Recovery and Waste Management Division no later than 90 days prior to contract termination.

REPORT INCENTIVES

Failure to satisfactorily comply with this section will constitute grounds for non-consideration of Reply, cancellation of contract, and/or disqualification from future bids. *Payment may be suspended until the required reports are presented according to their respective timetables.*

BILLING ARRANGEMENTS

CONTRACTOR will invoice the department on a monthly basis.

EXHIBIT C

INDEMNIFICATION AND INSURANCE REQUIREMENTS (For Service Contracts Not Requiring Professional Liability Insurance)

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment

furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.