



**BOARD OF SUPERVISORS
AGENDA LETTER**

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

**Submitted on:
(COB Stamp)**

Department Name: Planning &
Development
Department No.: 053
For Agenda Of: January 23, 2024
Placement: Administrative
Estimated Tme: N/A
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Lisa Plowman, Director, Planning & Development
Director(s): (805) 568-2086

Contact Info: John Zorovich, Deputy Director, Energy, Minerals & Compliance
Division (805) 568-2519

SUBJECT: Coastal Resource Mitigation Fund (CRMF) - Grant Contract with the Lompoc
Unified School District for the Cabrillo High School Aquarium, Fourth District

County Counsel Concurrence:

As to form: Yes *David L. Caceres*

Auditor-Controller Concurrence:

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a. Approve and authorize the Chair to execute the attached Coastal Resource Mitigation Fund contract with the Lompoc Unified School District, in the amount of \$100,000, to install the California Coastal Wetlands Exhibit in the Cabrillo High School Aquarium, for the period of January 23, 2024, to June 1, 2024, Fourth District (Attachment A).
- b. Approve and authorize the Director of Planning & Development, or designee, to take the following actions for the attached Coastal Resource Mitigation Fund Contract:
 - i. Extend time of performance, in accordance with Section 3 in Attachment A, for up to and not to exceed a period of one year for good cause;
 - ii. Approve project changes, in accordance with Section 5 in Attachment A, including any change to the project description, any reduction in the overall project budget, or any change in a budget item of 10 percent or more; and
 - iii. Terminate the contract, in accordance with Section 15 in Attachment A.

- c. Determine that the allocation of a Coastal Resource Mitigation Fund grant is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(5).

Summary Text:

This Board item requests approval of a Coastal Resource Mitigation Fund (CRMF) contract with Lompoc Unified School District (LUSD) in the amount of \$100,000 for a California Coastal Wetlands Exhibit in the Cabrillo High School Aquarium. On August 29, 2023 the Board awarded the grant and directed staff to return for approval of the contract (Attachment A).

Recommended Action a. Attachment A contains a contract with the Lompoc Unified School District (LUSD), providing the \$100,000 CRMF grant towards a new California Coastal Wetland Exhibit in the Cabrillo High School Aquarium. LUSD shall install an exhibit that will inform visitors of the importance of wetlands and how they are threatened. LUSD shall complete this exhibit before the end of the 2023-2024 school year.

Recommended Action b. The contract includes several provisions that allow future minor administrative tasks to be handled by the Director of Planning & Development or designee.

Recommended Action c. Executing CRMF contracts does not meet the definition of a “project” pursuant to CEQA Guidelines Section 15378(b)(5). This section exempts administrative activities of governments that will not result in direct or indirect physical changes in the environment.

Background:

At the August 29, 2023, Board of Supervisors hearing, the Board of Supervisors (Board) awarded eight grants from the combined 2022-2023 CRMF cycle and directed staff to return to the Board with the contractual agreements. The recommended action would execute the 2022-2023 CRMF award with the Lompoc Unified School District (LUSD) for the Cabrillo High School aquarium, as described above.

The County established CRMF to mitigate the environmental impacts of offshore oil and gas development and transportation projects. Mitigation is provided through CRMF for impacts to four categories of coastal resources: coastal recreation, tourism, aesthetics, and environmentally sensitive resources. The County must ensure that CRMF fees are used to mitigate those impacts, according to conditions of approval on projects and the CRMF Guidelines.

Fiscal Analysis:

Federal					
Fees					
Other: CRMF				\$	100,000.00
Total	\$	-	\$	-	\$ 100,000.00

Budgeted: **Yes**

The CRMF contract with LUSD, included as Attachment A, does not involve County property and/or ongoing costs.

CRMF creates no fiscal impact on the County General Fund budget. CRMF is funded by mitigation fees paid annually by developers of offshore oil and gas reserves. Funding for CRMF is budgeted in the Planning & Development Department’s Coastal Mitigation Budget Program on page D-316 of the

Page 3

*Coastal Resource Mitigation Fund Contract – Cabrillo High School Aquarium
January 23, 2024*

County of Santa Barbara Fiscal Year (FY) 2023-24 Adopted Budget, and is fully supported by funds in CRMF.

Administration of the CRMF includes updates to the annual status report, solicitation and evaluation of grant proposals and recommendation of grant awards to the Board of Supervisors, preparing, monitoring and enforcement of CRMF grant contracts; preparation and monitoring of the CRMF budget, reassessing CRMF fees, and responding to inquiries.

Key Contract Risks:

Risk analyses of the contract in Attachment A determined that it would be low risk: the amount is \$100,000 or less; the performance period is less than one year; the complexities of the contract requirements are low; and the contract is not controversial.

Special Instructions:

Clerk of the Board will forward copies of the executed contract (including Exhibits A and B) to Errin Briggs of the Planning & Development Department, Energy, Minerals & Compliance Division, who will mail copies of the contract to the Grantees and request the Auditor Controller to pay the contract award.

Attachments:

A: Contract with Lompoc Unified School District

G:\GROUP\ENERGY\POLICY\CRMF (previously CREF)\2022 - 2023\Contracts\1.23.24 - Contract to BOS\2024 Jan 23 - Board Letter CRMF Contract.doc

Attachment A

Contract with Lompoc Unified School District

**CABRILLO HIGH SCHOOL CALIFORNIA COASTAL WETLAND EXHIBIT
CONTRACT BETWEEN THE COUNTY OF SANTA BARBARA
AND LOMPOC UNIFIED SCHOOL DISTRICT**

This Contract is made by and between the Lompoc Unified School District, a publicly funded local education agency with the County of Santa Barbara, registered under Section 501(c)(3) of the U.S. Internal Revenue Code (hereinafter referred to as "GRANTEE"), and the County of Santa Barbara, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), each a "Party," and collectively, "Parties," wherein COUNTY agrees to grant certain funds to GRANTEE for the purposes and on the conditions specified herein.

RECITALS

WHEREAS, environmental impact reports prepared for oil development projects offshore Santa Barbara County have identified adverse, residual impacts to local coastal resources not otherwise mitigable;

WHEREAS, COUNTY established and administers the Coastal Resource Mitigation Fund (hereinafter referred to as "FUND") that is financially supported by offshore oil and gas developers to mitigate these impacts; and

WHEREAS, the County Board of Supervisors conducted a public hearing for FUND's 2022-2023 cycle and found GRANTEE's proposal to fulfill the intent and purpose of FUND by enhancing coastal recreation, aesthetics, tourism, and environmentally sensitive coastal resources.

TERMS AND CONDITIONS

Now, therefore, in consideration of the mutual promises hereinafter set forth, it is agreed as follows:

(1) Obligations to be Performed Under this Contract. Within the Time of Performance specified in paragraph 3, GRANTEE shall perform all of the obligations described in this Contract and set forth in the project description, which is attached hereto and incorporated herein by reference as Exhibit A (hereinafter referred to as "PROJECT").

To the extent that environmental review, permits, and other approvals from local, state, or federal governments are necessary to effectuate the Contract made herein, GRANTEE shall be responsible for obtaining such review, permits, and approvals, including costs incurred. The parties acknowledge that no commitment with regard to PROJECT approval can be or is hereby given in advance.

(2) Grant Funding. COUNTY shall award to GRANTEE an amount not to exceed one hundred thousand dollars (\$100,000) no later than thirty (30) days after execution of this Contract, to complete PROJECT. Ninety-three thousand, five-hundred and thirty-seven dollars (\$93,537) shall come from Fund #0063, Dept. #053, Program #5090, Account #7863, Project

#2206 and six thousand, four hundred and sixty-three dollars (\$6,463) shall come from Fund #0063, Dept. #053, Program #5090, Account #7863, Project #2304, for a total of \$100,000.

(3) Time of Performance. PROJECT shall be completed on or before June 1, 2024. However, COUNTY's Director of Planning & Development Department (hereinafter referred to as "DIRECTOR") may extend the time of performance by up to one year for good cause.

GRANTEE agrees to operate PROJECT for a minimum of five years following installation of PROJECT. If for some reason, GRANTEE cannot operate PROJECT during this time, GRANTEE shall notify COUNTY, and GRANTEE and COUNTY shall agree on a governmental agency or a non-profit organization to assign ownership of the items funded by this grant.

(4) Matching Funds. GRANTEE shall provide matching funds, as described in Exhibit A, as a condition of receiving this grant from the COUNTY. Failure to provide such funds shall, at the discretion of the DIRECTOR, be grounds for termination of this Contract. Upon such termination, GRANTEE shall within 14 days of termination return any grant funds received from the COUNTY under this Contract.

(5) Project Amendments. GRANTEE shall obtain prior written approval from the DIRECTOR for any changes proposed by GRANTEE in the PROJECT as described herein. Such changes include any change to the project description, any reduction in the overall project budget, or any change in a budget item of 10 percent or more. If the DIRECTOR finds that GRANTEE has proposed a change that represents a significant departure from the project originally considered and approved by the Board, then Board approval shall be required for such project changes.

(6) Project Cost Increases. If, for any reason, PROJECT costs exceed or are expected to exceed those represented by GRANTEE for receipt of this grant, and such increases cannot be covered by GRANTEE from its own or matching funds, GRANTEE shall notify COUNTY within 10 days of discovering the potential cost exceedance. If GRANTEE cannot secure the necessary resources within 30 days of notifying COUNTY, at the end of those 30 days, GRANTEE shall return to COUNTY all unspent monies of this grant (including monies encumbered by contracts). COUNTY shall hold the grant until GRANTEE secures all necessary resources to complete this PROJECT. Failure to secure said resources prior to PROJECT completion date in Article 3 of this Contract shall result in forfeiture of grant by GRANTEE.

(7) Project Cost Savings. GRANTEE shall return any unspent funds granted under this Contract to COUNTY within 60 days of completing PROJECT construction, and COUNTY shall return any unspent funds to FUND for reallocation by COUNTY in future funding cycle(s). If, for any reason, GRANTEE finds it cannot complete PROJECT, GRANTEE shall report that finding to COUNTY immediately and return any unspent funds granted under this Contract (including monies encumbered by subsequent contracts) to FUND within 14 days of that finding.

(8) Acknowledgement. GRANTEE shall publicly identify in its PROJECT press releases and newsletter that PROJECT was "...financed by Santa Barbara County's Coastal Resource Mitigation Fund, a partial mitigation of impacts from the following offshore oil and gas projects: Point Arguello, Point Pedernales, and Santa Ynez Unit." In addition, GRANTEE shall

acknowledge the Santa Barbara County’s Coastal Resource Mitigation Fund on a plaque affixed to PROJECT.

(9) Non-Partnership. This Contract is not intended by the parties to constitute or create a joint venture, pooling arrangement, or formal business organization of any kind. The rights and obligations of the parties shall be only those expressly set forth herein.

(10) Status of GRANTEE. GRANTEE and GRANTEE's subcontractors shall perform all services under this Contract as independent parties and not as employees, officers or agents of the COUNTY.

(11) Indemnification. GRANTEE shall defend, indemnify, and save harmless the COUNTY and its officials, officers, agents, representatives, and employees from any and all claims, demands, damages, costs, expenses (including attorney fees), judgments or liabilities arising out of this Contract or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission on the part of GRANTEE or its agents or employees. GRANTEE shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with the Contract.

(12) Semi-Annual Reports; Public Briefing. GRANTEE shall provide COUNTY with semi-annual written reports of the progress of PROJECT until completion of PROJECT. GRANTEE shall submit the progress reports to COUNTY according to the schedule set forth below:

PERIOD	REPORT DUE
April - September	October 15
October - March	April 15

The report shall compare the project’s progress to the description, budget and schedule in Exhibit A, including:

(a) The status of each task. This section shall include any proposed changes to the tasks, whether the project is progressing according to the schedule, and anticipated accomplishments in the upcoming months; and

(b) The costs to date compared with the approved budget. The report shall state whether or not PROJECT is progressing within the approved budget and discuss any proposed changes.

GRANTEE agrees to participate in a public briefing, if determined necessary and appropriate by COUNTY, to provide a summary of PROJECT.

(13) Final Report. Within 45 days of completion of PROJECT, GRANTEE agrees to provide to COUNTY a final report, which shall include:

(a) a brief summary of PROJECT’s objectives and how these objectives were accomplished,

(b) an itemized list and support documentation of all expenses incurred to complete PROJECT, and

(c) photos of installation of PROJECT and completed exhibit.

(14) Records. GRANTEE shall maintain complete financial records that clearly reflect the expenditures of this grant and matching funds in accordance with generally accepted accounting principles and that evidence proper audit trails reflecting the true cost of the services rendered and costs incurred for the project. GRANTEE shall maintain all such records for a minimum of four years after PROJECT completion. GRANTEE agrees that COUNTY's designated representative may, at any time during normal working hours and up to four years after PROJECT completion, review or audit all records regarding performance of this Contract. GRANTEE shall submit to COUNTY copies of findings of any audits which GRANTEE commissions.

(15) Termination.

(a) COUNTY may, in its sole discretion, terminate this Contract for convenience by giving thirty (30) days prior written notice to GRANTEE. GRANTEE shall not incur any unnecessary expenses or costs which are reimbursable under this Contract during this period except those absolutely necessary to close out all activities related to the Contract. COUNTY will not compensate any other charges incurred by GRANTEE during this period unless approved in writing by the DIRECTOR.

(b) COUNTY may terminate this Contract for cause should GRANTEE default in the performance of this Contract or materially breach any of its provisions. Such termination shall be by written notice and shall be effective upon receipt by GRANTEE.

(c) Upon termination of this Contract pursuant to this section, GRANTEE shall within 14 days return any unspent grant funds received from COUNTY under this Contract, and provide COUNTY an itemized list and supporting documentation of all expenses incurred on the PROJECT.

(16) Remedies Not Exclusive. No remedy herein conferred upon or reserved to either party 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.

(17) Waivers. The waiver by either party to this Contract of any term, covenant, or condition of this Contract or of any provision, ordinance, or law, shall not be deemed to be a continuing waiver of such term, covenant, condition, or law, or of any subsequent breach or violation of the same, or of any other term, covenant, ordinance, or law.

(18) Grant Contract Integrated. In conjunction with the matters considered herein, this Contract 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 Contract may be altered, amended or modified only by an instrument in writing, executed by the parties to this Contract and by no other means. Each party waives their future right to claim, contest or assert that this Contract was modified, canceled, superseded or changed by any oral agreements, course of conduct, waiver or estoppel.

(19) Assignment. This Contract shall not be assigned by GRANTEE without the prior written consent of the DIRECTOR.

(20) California Law to Apply. This Contract shall be governed by the laws of the State of California. Any litigation regarding this Contract or its contents shall be filed in the County of Santa Barbara, if in state court, or in southern California, if in federal court.

(21) Nondiscrimination Clause. GRANTEE shall abide by the Unlawful Discrimination Ordinance, Article XIII of Chapter 2 of the Santa Barbara County Code, which is attached hereto as Exhibit B and incorporated herein by this reference.

(22) Taxes. GRANTEE shall be responsible for payment of all taxes due as a result of the Contract. GRANTEE's Federal Tax Identification Number is 77-0070786.

(23) Point of Contact. The designated contacts for this Contract are:

(a) Errin Briggs, (805) 568-2047
P&D, Energy Division
123 Anapamu Street
Santa Barbara, California 93101
Email: ebiggs@countyofsb.org

(b) Greg Eisen, Director, (805) 588-9390
Cabrillo High School Aquarium, Lompoc Unified School District
4350 Constellation Road
Lompoc CA 93436
Email: eisen.greg@lUSD.org

(c) Christopher Ladwig, Advisor, (805) 264-4683
Cabrillo High School Aquarium, Lompoc Unified School District
4416 Titan Avenue
Lompoc CA 93436
Email: ladwig.christopher@lUSD.org

Either party may change its point of contact by providing 30 days written notice to the other party. The DIRECTOR or the Energy, Minerals, & Compliance DEPUTY DIRECTOR may designate a new point of contact for COUNTY.

(24) Ownership of Documents and Intellectual Property. COUNTY shall have Unlimited Rights of the following items incidental to this Contract 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 Contract is completed or terminated prior to completion.

“Unlimited rights” means the right of the COUNTY to have unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, use, reproduce, create and prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, to have or permit others to do so and otherwise use in whole or in part, any

Copyrightable Works and Inventions. GRANTEE 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. GRANTEE warrants that any Copyrightable Works and Inventions and other items provided under this Contract will not infringe upon any intellectual property or proprietary rights of any third party. GRANTEE 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 GRANTEE hereunder infringe upon intellectual or other proprietary rights of a third party, and GRANTEE shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. COUNTY's Unlimited Rights shall survive expiration or termination of this Contract.

[This area intentionally left blank. Signatures on following page.]

This Contract between COUNTY and GRANTEE is executed at Santa Barbara, California, on the dates shown below and shall be effective when signed by all parties.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: _____
Deputy Clerk

COUNTY OF SANTA BARBARA:

By: _____
Steve Lavagnino, Chair
Board of Supervisors

Date: _____


RECOMMENDED FOR APPROVAL:

Planning & Development

By: *Lisa Brown*
Department Head

**COASTAL RESOURCE MITIGATION
FUND GRANTEE**

Lompoc Unified School District

By: 
Authorized Representative

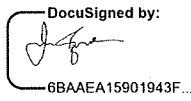
APPROVED AS TO FORM:

Rachel Van Mullem
County Counsel

By: *David L. Caceres*
Deputy County Counsel

**APPROVED AS TO ACCOUNTING
FORM:**

Betsy Schaffer, CPA
Auditor-Controller

By: 
6BAAEA15901943F...
Deputy

APPROVED AS TO FORM:

Risk Management

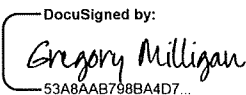
By: 
53A8AAB798BA4D7...
Risk Management

Exhibit A

PROJECT DESCRIPTION, BUDGET, AND SCHEDULE

Project Description.

GRANTEE shall design and install a “California Coastal Wetland Exhibit” in the Cabrillo High School Aquarium. The exhibit shall provide an understanding of the disappearing California coastal ecosystem. The exhibit shall be fifteen feet long against the rear wall of the main floor in the Aquarium and shall include:

- a 1,200-gallon kidney-shaped tank two-feet deep on a stand 4 inches high;
- walls of the tank shall be primarily clear acrylic and feature artificial pier pilings, rockwork, and vegetation to hide plumbing and simulate coastal wetlands and estuaries;
- a boardwalk ramp along the rear of the exhibit, which shall provide wheelchair access;
- a large vinyl mural behind the exhibit shall illustrate an estuarine wetland;
- bilingual interpretive signs shall highlight the importance of wetlands and how they are threatened; and
- museum-grade Kessil LED lighting shall accentuate the exhibit;

In addition, GRANTEE shall remove two outdated (original) exhibits/tanks.

Schedule

Task Description	Completion Date
Commence purchasing process with LUSD officials	July 2023
Designs & shop drawings finalized with Tenji	October 2023
Tenji commences orders with subcontractors	
Wetlands exhibit components begin off-site fabrication	
Develop replacement for old reef tank to be removed	December 2023
Relocate animals from old reef tank to new replacement	
Relocate animals from old cold tanks to temporary holding	
Remove reef & old cold tanks permanently	March 2024
Wetlands exhibit components begin to arrive on site	
Tenji & subcontractors arrive to assemble Wetlands exhibit	
New Wetlands exhibit stocked with animals	April 2024
Student curators train on new exhibit	
Students develop Wetlands curriculum for exhibit	
Wetlands exhibit unveiling	May 2024
Prepare and submit final report	June 1, 2024

Project Budget

Project Components	Costs
Wetlands Exhibit Materials	
Pool – Acrylic windows with black fiberglass bonding seams	\$168,500
Support Stand – 4” FRP beams	\$12,000
Kessil W500S Exhibit Lighting	\$10,000
Artificial rockwork, pier pilings, and boardwalk ramp	\$88,000
Photo mural and Graphics	\$2,454
Plumbing – All pipes, valves, and fittings	\$2,500
Cladding – Corian “Almond Pearl” cladding around tank base	\$42,000
Wetlands Exhibit Materials Sub-total:	\$325,454
Wetlands Exhibit Labor	
Fabrication – off-site	\$35,000
Design & PM – Design drawings and project management	\$41,000
Wetlands Exhibit Labor Sub-total:	\$76,000
Wetlands Exhibit Installation	
Shipping – Tank, stand, and materials	\$7,500
Labor Install – On-site installation and start-up (2 staff, 2 weeks)	\$15,500
Expenses – Travel, accommodations for installers	\$3,000
Installation Sub-total:	\$26,000
Replacement Reef Tank	
Acrylic tank	\$26,000
Support stand – FRP beams	\$5,000
Radion & Reef Brite Lighting	\$3,500
Removable Cladding – dark blue opaque acrylic	\$4,000
Life Support System & Plumbing	\$76,500
Shipping & Installation	\$3,000
Replacement Reef Tank Sub-total:	\$118,000
Project Sub-total:	\$545,454
10% Contingency:	\$54,546
In-kind services estimated value:	7,000
TOTAL COST: \$607,000	

* GRANTEE secured a total of \$507,000 additional monies: \$425,000 from the California National Resources Agency, \$10,000 from the Chumash and \$72,000 from the Aquarium Patron Program.

g:\group\energy\wp\policy\FUND\22-23\contracts\Cabrillo High School Aquarium\Cabrillo HS Contract.doc

Exhibit B

COUNTY OF SANTA BARBARA UNLAWFUL DISCRIMINATION ORDINANCE

Sec. 2-95. Prohibition of unlawful discrimination in employment practices. The County of Santa Barbara reserves the right to terminate forthwith each and every written contract and agreement (except purchase orders) for goods and/or services entered into by the County of Santa Barbara or by its joint powers, agencies or agents with the consent of the other parties (hereinafter called "contractor") including but not limited to concessions, franchises, construction agreements, leases, whether now in effect or hereinafter made if the county finds that the contractor is discriminating or has discriminated against any employee or applicant for employment in violation of any applicable state or federal laws, rules or regulations which may now or hereafter specifically prohibit such discrimination on such grounds as race, religion, sex, color, national origin, physical handicap when otherwise qualified, Vietnam era veteran/disabled, or age.

Such finding may only be made after contractor has had a full and fair hearing on notice of thirty (30) days before an impartial hearing officer at which hearing contractor may introduce evidence, produce witnesses and have the opportunity to cross-examine witnesses produced by the county. Further, any finding of discrimination must be fully supported by the facts developed at such hearing and set forth in a written opinion; and in addition, contractor may move in the appropriate court of law for damages and/or to compel specific performance of a contractor or agreement if any the above procedures are not afforded to the contractor. If contractor is not found to have engaged in unlawful discriminatory practices, county shall pay all costs and expense of such hearing, including reasonable attorneys' fees to contractor in accordance with current Santa Barbara County Superior Court schedule of attorneys' fees for civil trials. If contractor is found to have engaged in such unlawful discriminatory employment practices, contractor shall pay all such costs, expenses and attorneys' fees.

Whether or not a contract or agreement is still in existence at the time of final determination of such unlawful discrimination, the contractor shall forthwith reimburse county for all damages directly stemming from such discrimination; however, those damages shall not exceed and are not reimbursable in an amount which exceeds amounts paid contractor under the terms of the contract or agreement.

Nothing in this Sec. 2-95 shall directly or by interpretation give a private cause of action to any third party (not a signatory to the contract or agreement) including employees past or present, or applicants for employment to contractor, it being the sole purpose of this clause to administratively assure compliance with the nondiscrimination clauses contained herein.

Employment practices shall include, but are not limited to employment, promotion, demotion, transfer, recruitment and advertising for recruitment, layoff or other termination, rate of pay, employee benefits and all other forms of compensation selection for training and apprenticeship and probationary periods.

Contractor shall permit access at all reasonable time and places to all of its records of employment, advertising, application forms, tests and all other pertinent employment data and records, to the County of Santa Barbara, its officers, employees and agents for the purpose of investigation to ascertain if any unlawful discrimination as described herein has occurred or is being practiced, provided that such records are relevant to a complaint of an unlawful discriminatory practice which has been forwarded to contractor reasonably prior to the time contractor is asked to make such records available. In addition, all such records shall be deemed "Confidential" by the officers, employees and agent of the county. No records or copies of such records may be removed from the premises of contractor and no

disclosure, oral or written of such record, may be made to third parties except as provided within the agreement.

Provided, however, that in the event of a hearing to determine whether or not contractor is engaging in unlawful discrimination in employment practices as defined herein, the Board of Supervisors of Santa Barbara County may issue subpoenas to require that certified copies of such records be made available to the hearing.

Failure to fully comply with any of the foregoing provisions relating to unlawful discrimination in employment practices shall be deemed to be a material breach of any contract or agreement with the County of Santa Barbara. All persons contracting with or who have contracts for goods or services with the county shall be notified that this chapter applies to their contract or agreement with the County of Santa Barbara. (Ord. No. 2946, SS 1; Ord. No. 2993, SS 1; Ord. No. 3018, SS 1.)

Sec. 2-95.5. Exceptions. Notwithstanding any other provisions in this article, any party contracting with the County of Santa Barbara having an affirmative action program, which has been approved within thirty-six (36) months from the date of the contract by an agency of the federal government, shall be deemed to be in compliance with the provisions of this article upon furnishing documentary evidence of such approval satisfactory to the county affirmative action officer. Loss of such approval shall be immediately reported by such party to the county affirmative action officer.

Sec. 2-96. Purchase orders. Purchase orders shall contain the following clause as grounds for termination of such purchase order.

"If complaint is made that seller is engaging in discriminatory employment practices made unlawful by applicable state and federal laws, rules or regulations, and the State Fair Employment Practice Commission or the Federal Equal Employment Opportunities Commission determines that such unlawful discrimination exists, then the County of Santa Barbara may forthwith terminate this order." (Ord. No. 2946, § 1.)

Sec. 2-97. Affirmative action officer. At the discretion of the county affirmative action officer, he or she shall promptly and thoroughly investigate, or cause to be investigated reports and complaints from whatever source, that any party contracting with the County of Santa Barbara is engaging, or during the term of a contract or agreement with the County of Santa Barbara has engaged, in any unlawful discriminatory employment practices as described in Sec. 2-95 of this Code. If the investigation discloses reason to believe such unlawful discrimination does exist or has existed and the conditions giving rise thereto have not been changed so as to prevent further such unlawful discrimination, and the said party shall not forthwith terminate such unlawful discrimination, take all appropriate steps to prevent a recurrence of such or other unlawful practices, and compensate the person or persons unlawfully discriminated against for any and all loss incurred by reason of such unlawful discrimination, all to the satisfaction of the affirmative action officer, then the affirmative action officer shall cause the matter to be presented for action to the State Fair Employment Practices Commission or the Federal Equal Employment Opportunities Commission, or both, and to any other concerned state or federal agencies or officers.

If and when it has been finally determined by the affirmative action officer, county counsel, or state or federal regulatory agencies that such unlawful discriminatory employment practice has in fact so occurred or are being carried on, then the affirmative action officer shall forthwith present the entire matter to the board of supervisors of the county, together with all damages, costs and expense related thereto and incurred by county, for appropriate action by the board of supervisors in accord with the intent and purposes of this article and of the affirmative action program of the County of Santa Barbara. (Ord. No. 2946, § 1.)