

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 the **City of Santa Barbara** having its principal place of business at **620 Laguna Street, Santa Barbara, CA 93101** (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

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

1. **DESIGNATED REPRESENTATIVE.** **Raymond McDonald, WIB Executive Director** at phone number **(805) 681-4446** is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. **Jill Zachary, Assistant Parks and Recreation Director** at phone number **(805) 564-5437** 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 first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: **Raymond McDonald, WIB Executive Director, 234 Camino del Remedio, Santa Barbara, CA 93110**

To CONTRACTOR: **Jill Zachary, Assistant Parks & Recreation Director, P.O. Box 1990, Santa Barbara, CA 93102**

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

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 7/1/2009 and end performance upon completion, but no later than 12/31/2009 unless otherwise directed by COUNTY or unless earlier terminated.

5. **COMPENSATION OF CONTRACTOR.** 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.** CONTRACTOR shall perform all of its services under this Agreement as an independent contractor and not as an employee of COUNTY. 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.

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. **TAXES.** 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.

9. **CONFLICT OF INTEREST.** CONTRACTOR covenants that CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, 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.

10. **RESPONSIBILITIES OF COUNTY.** COUNTY shall provide all information reasonably necessary by CONTRACTOR in performing the services provided herein.

11. **OWNERSHIP OF DOCUMENTS.** 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, and any material necessary for the practical use of the data and/or documents 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 materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

12. **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 practices. 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.

13. **INDEMNIFICATION AND INSURANCE.** CONTRACTOR shall agree to defend, indemnify and save harmless the COUNTY and to procure and maintain insurance in accordance with the provisions of EXHIBIT C attached hereto and incorporated herein by reference.

14. **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.

15. **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.

16. **ASSIGNMENT.** CONTRACTOR shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

17. **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 or because of the failure of CONTRACTOR to fulfill the obligations herein. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services effected (unless the notice directs otherwise), and deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process.

1. For Convenience. COUNTY may terminate this Agreement upon thirty (30) days written notice. Following notice of such termination, CONTRACTOR shall promptly cease work and notify COUNTY as to the status of its performance.

Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for service 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 effect any right or remedy which COUNTY may have in law or equity.

2. 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 this Agreement by written notice, which shall be effective upon receipt by CONTRACTOR.

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.

18. **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.

19. **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.

20. **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.

21. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

22. **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.

23. **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.

24. **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.

25. **COMPLIANCE WITH LAW.** CONTRACTOR shall, at his 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 be 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.

26. **CALIFORNIA LAW.** 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.

27. **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.

28. **AUTHORITY.** All 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.

29. **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.

30. **NONAPPROPRIATION CLAUSE.** In the event that funds are not appropriated, budgeted, or otherwise made available in the consecutive years of this Agreement, then COUNTY shall

immediately notify CONTRACTOR of such occurrence and the Agreement may be terminated by COUNTY. Subsequent to the termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and the **City of Santa Barbara**.

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

COUNTY OF SANTA BARBARA

By: _____
Chair, Board of Supervisors

Date: _____

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

CONTRACTOR

By: _____
Deputy

By: _____
SocSec or TaxID Number: On File

APPROVED AS TO FORM:
DENNIS MARSHAL
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED AS TO FORM:
RISK MANAGEMENT

By: _____
Risk Management

CITY OF SANTA BARBARA
A Municipal Corporation

Name
Title

ATTEST:

Cynthia M. Rodriguez, CMC
City Clerk Services Manager

APPROVED AS TO CONTENT:

Name
Title

APPROVED AS TO FORM:
Stephen P. Wiley
City Attorney

By _____
Assistant City Attorney

EXHIBIT A

SCOPE OF WORK

NATIONAL EMERGENCY GRANT: PARMA PARK AND RATTLESNAKE CANYON TRAIL REHABILITATION

I. PURPOSE/TERM:

The purpose of this contract is to provide funding under the National Emergency Grant for the 2008 Southern California Wildfires Disaster to the City of Santa Barbara for the purpose of restoring and rehabilitating Parma Park and Rattlesnake Canyon Trail. The City of Santa Barbara shall commence performance on July 1, 2009 and end performance upon completion, but no later than December 31, 2009 unless otherwise directed by COUNTY or unless earlier terminated.

II. BACKGROUND:

In response to the announcement of National Emergency Grant funding for the 2008 Southern California Wildfires Disaster, the City of Santa Barbara submitted a proposal for Parma Park and Rattlesnake Canyon Trail to serve as a job site. The City of Santa Barbara owns and manages the 200-acre Parma Park and the 451-acre Rattlesnake Canyon Park.

The City of Santa Barbara's Parma Park is located entirely within the Tea Fire disaster area. Over 95 percent of the native riparian, oak woodland and grassland habitats within the 200-acre open space park were destroyed by the fire. Due to the fire, the park sustained a significant loss of vegetation and soil erosion. Hiking and equestrian trails and fire access roads were damaged. While some immediate work was completed to reduce hazards, there is a significant need to clean-up and remove dead trees and exposed barbed wire fencing throughout the park, as well as downed woody debris in Sycamore, Parma and Coyote Creeks. Erosion control mechanisms such as straw wattles and cocoanut fiber need to be installed along steeper slopes, and trail and road areas to reduce the potential for soil erosion, sedimentation and downstream flooding. Fencing and park signage destroyed by the fire needs to be installed. Exposed soils have resulted in the emergence of non-native invasive plant species that need to be eradicated in order to restore native habitats. Subsequent to these clean-up efforts, restoration of the park will include the re-construction of trails, and re-planting of riparian areas and woodlands with new trees and other native shrubs.

Rattlesnake Canyon Trail, located in Rattlesnake Canyon Park, also sustained damage as a result of the Tea Fire. Exposed soils due to the loss of vegetation and trees as well as remaining debris pose hazards to trail use. Trail improvements include the clean-up and removal of dead trees and vegetation and downed woody debris, erosion control measures and improvements to trail tread and drainage. These improvements will reduce long-term impacts to the trail associated with Tea Fire damage.

The City of Santa Barbara Parks and Recreation Department will employ up to 12 participants in one 6-month phase to clean-up and restore Parma Park and Rattlesnake Canyon Trail. It is anticipated that the assistance of NEG participants will provide a critical foundation for the long-term restoration of both open space parks and reduce potential downstream impacts from soil erosion and creek sedimentation. City of Santa Barbara temporary employees will be hired to serve as the supervisors.

III. DUTIES AND RESPONSIBILITIES:

A. City of Santa Barbara shall:

1. Serve as a project operator under the National Emergency Grant for 2008 Southern California Wildfires Disaster. As a project operator, the City of Santa Barbara will implement the Parma Park Rehabilitation Project.
2. Provide temporary jobs for up to 12 participants in the implementation of the Parma Park Rehabilitation Project.
3. Implement the Parma Park and Rattlesnake Canyon Trail Rehabilitation Project over a 6-month period. The scope of the project includes the following:
 - Clean-up and removal of dead trees and other downed woody debris throughout the park and in the creeks. The participants would also remove exposed fencing and other debris exposed by the loss of vegetation. Trail repair work, and drainage repairs and installation of erosion control materials would be undertaken. Efforts to eradicate non-native invasive plants would begin. The majority of this work would be done using hand tools. Since the City's Integrated Pest Management Program prohibits the use of herbicides, removal of non-native vegetation would be achieved by hand and weeding tools.

B. County shall:

1. Confirm the eligibility of program participants and make appropriate referrals to City through the WIA Workforce Resource Center;
2. Monitor program and fiscal performance in accordance with standard protocols established for WIA activities and specific guidelines for NEG grant awards;
3. Provide MIS documentation and data entry for program participants and activities as required by WIA and NEG requirements; and
4. Provide grievance procedures for program participants after City of Santa Barbara grievance protocols have been exhausted without resolution.

EXHIBIT B

PAYMENT ARRANGEMENTS Periodic Compensation (with attached Line Item Budget)

- A. For CONTRACTOR services to be rendered under this contract, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$ **186,190.00**.
- 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. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **EXHIBIT B1** (Line Item Budget). Invoices submitted for payment that are based upon **EXHIBIT B1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
- 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 and within the cost basis of **EXHIBIT B1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of presentation.
- 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 B1

LINE ITEM BUDGET

Name of Applicant Agency: City of Santa Barbara Parks and Recreation Department
Term Beginning: July 1, 2009 **Term Ending: December 31, 2009**

A. SALARIES AND EMPLOYEE BENEFITS

1) Salaries

Position(s)	Full-Time Equivalent (FTE) ¹	Budget for Contract Term
Direct Service Positions		
Senior Grounds Maintenance Worker	48%	\$20,590.00
Senior Grounds Maintenance Worker	48%	\$20,590.00
Grounds Maintenance Assistant	46%	\$11,980.50
Grounds Maintenance Assistant	46%	\$11,980.50
Grounds Maintenance Assistant	46%	\$11,980.50
Grounds Maintenance Assistant	46%	\$11,980.50
Grounds Maintenance Assistant	46%	\$11,980.50
Grounds Maintenance Assistant	46%	\$11,980.50
Grounds Maintenance Assistant	46%	\$11,980.50
Grounds Maintenance Assistant	46%	\$11,980.50
Grounds Maintenance Assistant	46%	\$11,980.50
Sub-Total Salaries:		\$149,004.50

Note:

Senior Grounds Maintenance Workers will work up to 1,000 hours for 25 weeks.
 Grounds Maintenance Assistants will work up to 978 hours for 24.5 weeks.

2) Employee Benefits - List type of employee benefit(s) and amount budgeted.

Type of Employee Benefit	Budget for Contract Term
Medicare @ 0.45%	
Senior Grounds Maintenance Workers (\$298.55 x 2 positions)	\$597.10
Grounds Maintenance Assistants (\$174 x 9 positions)	\$1,566.00
Sub-Total Employee Benefits	\$2,163.10
Percentage Benefits	1.45%
TOTAL SALARIES AND EMPLOYEE BENEFITS	\$151,167.60

B. SERVICES AND SUPPLIES

Item	Budget for Contract Term
Telephone (1)	\$480.00
City Vehicle Rental (2)	\$4,903.00
Fuel (3)	\$1,000.00
Portable Toilet and Wash Station (4)	\$3,324.00
Personal Safety Gear	\$4,057.00
Uniforms	\$3,195.74
Tools	\$9,629.00
TOTAL SUPPLIES	\$26,588.74

Notes:

- (1) Telephone expenses assume \$40/month for 6 months for two cell phones, one assigned to each Senior Grounds Maintenance Worker.
- (2) The City has two vehicles that would be dedicated to the project. Costs represent 35% of the annual maintenance/repair costs.
- (3) Fuel expenses based on project related mileage and fuel costs.
- (4) A portable toilet and wash station will be needed for the project. Parma Park does not have any restroom facilities.

C. OPERATING EXPENSES

<i>Item</i>	Budget for Contract Term
Workers Compensation Insurance	
Senior Grounds Maintenance Workers 2 x 1,000 hours x \$20.59 x \$.0566 = \$2,330.79	\$2,330.79
Grounds Maintenance Assistants 9 x 978 hours x \$12.25 x \$.0566 = \$6,102.87	\$6,102.87
TOTAL OPERATING EXPENSES	\$8,433.66

D. COST:

TOTAL PROJECT
\$186,190

EXHIBIT C

STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS for contracts NOT requiring professional liability insurance

INDEMNIFICATION

CONTRACTOR shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the COUNTY.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

Without limiting the CONTRACTOR's indemnification of the COUNTY, CONTRACTOR shall procure the following required insurance coverages at its sole cost and expense. All insurance coverage is to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONTRACTOR in default. Upon request by the COUNTY, CONTRACTOR shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. Workers' Compensation Insurance: Statutory Workers' Compensation and Employers Liability Insurance shall cover all CONTRACTOR's staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONTRACTOR is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONTRACTOR has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.
2. General and Automobile Liability Insurance: The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the CONTRACTOR in the indemnity and hold harmless provisions of the Indemnification Section of this Agreement between COUNTY and CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. CONTRACTORS shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, agents, and employees shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the

Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:

"Such insurance as is afforded by this policy shall be primary and non-contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only."

If the policy providing liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

CONTRACTOR shall submit to the office of the designated COUNTY representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the designated County representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR'S services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY'S rights to insurance coverage hereunder.

In the event the CONTRACTOR is not able to comply with the COUNTY'S insurance requirements, COUNTY may, at their sole discretion and at the CONTRACTOR'S expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY's Risk Manager is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY's risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.

**EXHIBIT D
YEAR 2000 DATE CHANGE COMPLIANCE WARRANTY
FOR GOODS AND SERVICES**

---- INTENTIONALLY OMITTED ----

**REMOVED
March 1, 2004**

THIS AGREEMENT DOES NOT INCLUDE EXHIBIT D

EXHIBIT E
GENERAL PROVISIONS AND STANDARDS OF CONDUCT FOR WIA

CONTRACTOR is subject to the following provisions from the County's contract with the Employment Development Department

1. Compliance –
 - a. CONTRACTOR will comply with the requirements of the Workforce Investment Act (Act) and with all related amendments, regulations, policies, and procedures promulgated there under including Section 306 of the Clean Air Act and Section 508 of the Clean Water Act.
 - b. CONTRACTOR further assures and certifies that if the regulations, policies, and procedures pursuant to the Workforce Investment Act, Clean Air Act, or Clean Water Act are amended or revised, CONTRACTOR shall comply with them.
 - c. CONTRACTOR will also certify its compliance with the Americans with Disabilities Act of 1990.
 - d. COUNTY may avail itself of any or all administrative, contractual or legal remedies for violation of this Agreement.
 - e. CONTRACTOR shall observe all applicable federal regulations relating to copyrights and patents in the performance of this Agreement.
 - f. COUNTY, the State of California and the U.S. Department of Labor shall have access to all data derived from the activities conducted under this Agreement.
 - g. CONTRACTOR further agrees to comply with all applicable federal, state, and county requirements for the submission and provision of information for all audit reports relating to this Agreement.
 - h. CONTRACTOR will ensure diligence in managing programs under this agreement including performing appropriate monitoring activities and taking prompt corrective action against known violations of the WIA.
2. Certification - Except as otherwise indicated, the following certifications apply to all CONTRACTORS.
 - a. *Corporate Registration:* The CONTRACTOR, if it is a corporation, certifies it is registered with the Secretary of State of the State of California.
 - b. *Sectarian Activities:* The CONTRACTOR certifies that this agreement does not provide for the advancement or aid to any religious sect, church or creed, or sectarian purpose nor does it help to support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church, or sectarian denomination whatever, as specified by Article XVI, Section 5, of the Constitution, regarding separation of church and state.
 - c. *National Labor Relations Board:* The CONTRACTOR (if not a public entity), by signing this agreement, does swear under penalty of perjury, that no more that one final unappeasable finding of contempt of court by a federal court has been issued against the CONTRACTOR within the immediately preceding two-year period because of CONTRACTOR failure to comply with an order of a federal court which orders the CONTRACTOR to comply with an order of the National Labor Relations Board.
 - d. *Prior Findings:* CONTRACTOR, by signing this agreement, does swear under penalty of perjury, that it has not failed to satisfy any major condition in a current or previous contract or grant with the Department of Labor (DOL) or the State of California and has not failed to satisfy conditions relating to the resolution of a final finding and determination, including repayment of debts.
 - e. *Drug-Free Workplace Certification:* By signing this subgrant/contract, the CONTRACTOR hereby certifies under penalty of perjury under the laws of the State of California that the CONTRACTOR or contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq. and 29 CFR Part 98) and will provide a drug-free workplace by taking the following actions:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8350(a).
 2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - ~ The dangers of drug abuse in the workplace;
 - ~ The person's or organization's policy of maintaining a drug-free workplace;
 - ~ Any available counseling, rehabilitation and employee assistance programs; and,
 - ~ Penalties that may be imposed upon employees for drug abuse violations.
 3. Provide, as required by Government Code Section 8355©, that every employee who works on the proposed contract:
 - ~ Will receive a copy of the company's drug-free policy statement; and,
 - ~ Will agree to abide by the terms of the company's statement as a condition of employment on the contract.
- f. *Child Support Compliance Act:* In accordance with the Child Support Compliance Act, the CONTRACTOR recognizes and acknowledges:
1. The importance of child and family support obligations and shall fully comply with applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and that to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Employee Registry maintained by the California Employment Development Department (EDD).
- g. *Debarment and Suspension Certification:* By signing this agreement, the CONTRACTOR hereby certifies under penalty of perjury under the laws of the State of California the CONTRACTOR will comply with, regulations implementing Executive Order 12549, Debarment and Suspension, 29 C.F.R. Part 98.51 0 and Executive Order 12689, 29 CFR 95.48 (e) and Appendix A to part 95, that the prospective participant (i.e., grantee), to the best of its knowledge and belief, that it and its principals:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transitions by any federal department or agency;
 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, State or local) with commission of any of offenses enumerated in paragraph 2 of this certification;
 4. Have not within a three year period preceding this agreement had one or more public transactions (federal, State or local) terminated for cause of default.
 5. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.
- h. *Lobbying Restrictions:* By signing this agreement the CONTRACTOR hereby assures and certifies to the lobbying restrictions which are codified in the DOL regulations at 29 CFR Part 93.

1. No federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this federal contract, grant loan, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress, in connection with this federal contract, grant, loan, and cooperative agreement, the undersigned shall complete and submit Standard Form-LLL , "Disclosure Form to Report Lobbying" in accordance with its instructions.
 3. The undersigned shall require that the language of this certification be included in the award documents for sub grant/contract transactions over \$100,000 (per OMS) at all tiers (including sub grants, contracts and subcontracts, under grants, loan, or cooperative agreements), and that all sub recipients shall certify and disclose accordingly.
 4. This certification is a material representation of fact upon which reliance is placed when this transaction is executed. Submission of this. Certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.
- i. *Union Activities:* CONTRACTOR, by signing this Grant, hereby acknowledges the applicability of Government Code 16645 through 166459 to this Agreement. Furthermore, CONTRACTOR, by signing this agreement, hereby certifies that:
1. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
 2. CONTRACTOR shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
 3. CONTRACTOR shall, where state funds are not designated as described in (2) above, allocate, on a pro-rata basis, all disbursements that support the grant program.
 4. If CONTRACTOR makes expenditures to assist, promote or deter union organizing, CONTRACTOR will maintain records sufficient to show that no state funds were used for those expenditures, and that CONTRACTOR shall provide those records to the Attorney General upon request.

Failure to comply with all requirements of the certifications in Section 2 may result in suspension of payment under the subgrant/contract or termination of the subgrant/contract, or both, and the contractor or grantee may be ineligible for award of future state subgrants/contracts if the department determines that any of the following has occurred: (1) false information on the certifications, or (2) violation of the terms of the certifications by failing to carry out the requirements as noted above.

3. Amendments – This agreement may be unilaterally modified by the County upon written notice to CONTRACTOR under the following circumstances:
- a) There is an increase or decrease in federal or state funding levels.
 - b) A modification to CONTRACTOR contract is required in order to implement an adjustment or modification to the local plan.
 - c) Funds awarded to CONTRACTOR have not been expended in accordance with the schedule included in the approved local plan. After consultation with CONTRACTOR, the County has determined that the funds will not be spent in a timely manner, and such funds are for that reason to the extent permitted by and in a manner consistent with state and federal law, regulations and policies, reverting to the County.

d) There is a change in state and federal law or regulation requiring a change in the provisions of this agreement. Except as provided above, this agreement may be amended only in writing by the mutual agreement of both parties.

4. Accounting and Cash Management - CONTRACTOR will comply with the controls, record keeping and fund accounting procedure requirements of WIA, federal, state, and county regulations and directives to ensure the proper disbursement of, and accounting for, program funds paid to CONTRACTOR and disbursed by CONTRACTOR, under this agreement.
5. Reporting – CONTRACTOR will compile and submit reports of activities, expenditures, status of cash and closeout information by the specified dates as prescribed by the County. CONTRACTOR will have to submit periodic narrative reports in addition to monthly financial and quarterly statistical reports.
6. Grievance and Complaint System – CONTRACTOR will establish and maintain a grievance complaint procedure in compliance with WIA, federal regulations and state statutes, regulations and policy.
7. Audits – CONTRACTOR and/or auditors performing monitoring or audits of CONTRACTOR will immediately report to the County any incidents of fraud, abuse or other criminal activity in relation to this agreement, the WIA, or its regulation.
8. Disallowed Costs – Except to the extent that the state and/or the county determines it will assume liability, CONTRACTOR will be liable for and will repay, to the county, any amount expended under this agreement found not to be in accordance with WIA including, but not limited to, disallowed costs. Such repayment will be from funds (Non-Federal), other than those received under the WIA.