



County of Santa Cruz⁰²²⁵

HEALTH SERVICES AGENCY

701 OCEAN STREET, ROOM 312, SANTA CRUZ, CA 950604073
(831) 454-2022 FAX: (831) 4543128 TDD: (831) 4544123

ENVIRONMENTAL HEALTH

September 20, 1999

AGENDA: October 5, 1999

BOARD OF SUPERVISORS

County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: LOCAL Y2K HAZARDOUS MATERIALS ASSESSMENTS/AGREEMENT

Dear Board Members:

Pursuant to Governor Gray Davis' Executive Order D-3-99, the Governor's Office of Emergency Services (OES) has been directed to work with and assist local governments in assessing the **Y2K** readiness of hazardous materials facilities and handlers. As part of this program to protect public health and safety from potential **Y2K** related accidental hazardous materials releases, OES will provide appropriate reimbursement to eligible local government agencies. The Santa Cruz County Health Services Agency /Environmental Health Service (**HSA/EHS**) has previously been designated by the California Environmental Protection Agency as the Certified Unified Program Agency (**CUPA**) for the county and all cities within the county boundaries. As the **CUPA**, EHS is responsible for local implementing and enforcing of State Laws pertaining to hazardous materials and is equipped to determine facilities to be evaluated with regard to their **Y2K** readiness. Health Services Agency is recommending that your Board approve an agreement with the State which will reimburse the County for its participation in the program.

Background:

On February 13, 1999, Executive Order D-3-99 directed the Governor's Office of Emergency Services (OES) to assess and determine the **Y2K** readiness of the approximately 130,000 hazardous materials facilities and handlers in California. Prevention of **Y2K** related accidental hazardous materials releases is the primary objective. OES spent four months establishing the project and determining how to accomplish the work. They decided to provide **funding** to local agencies that were familiar with and best able to assess the hazardous material facilities within their respective jurisdictions. In July of this year, OES sent an initial letter to the 130,000 hazardous materials handlers throughout the state informing them of the need to assure public health and safety as part of the transition into the new millennium. Last month (August), the State's regional training workshops began and Standard Agreements for performance of the work were sent to the eligible local agencies.

Current Status:

EHS staff have attended the State's training workshops and compiled a list identifying facilities in Santa Cruz County that warrant further evaluation with regard to their **Y2K** readiness. This list includes approximately one hundred (100) sites that justify having Hazardous Materials Senior Environmental Health Specialists make direct contact with those individuals responsible for insuring the safety and preparedness of these

facilities. The State has provided assessment tools and funding, through the Standard Agreement, for local agencies to complete the project over the next few weeks.

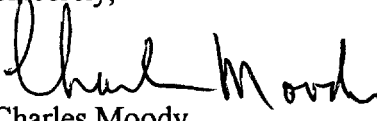
Local Effects:

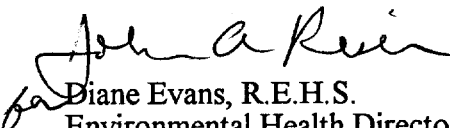
Given the time remaining to complete this project, EHS will have to redirect non-emergency hazardous materials staff resources to conduct these final assessments and report back to OES with findings. Over the years, EHS has developed a strong working relationship with local hazardous materials handlers and can provide the most efficient and effective assessment of these sites. OES will reimburse the County for the cost of performing the work for an amount up to \$26,668. HSA proposes allocating the revenue generated by these efforts to upgrading the hazardous materials information management capabilities within the current budget year. EHS will be consulting with Information Services Department on the best ways to accomplish this. A resolution accepting and appropriating revenue is attached. Health Services Agency/Environmental Health Service will report back to your Board should this assessment of hazardous materials facilities and handlers reveal significant concerns.

It is therefore RECOMMENDED that your Board:

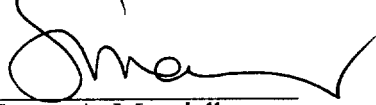
1. Authorize the Health Services Agency Administrator to sign the Standard Agreement with the State of California for reimbursement of activities performed by the Santa Cruz Environmental Health Service related to assessment of hazardous materials facilities' Y2K readiness (on file with the Clerk of the Board).
2. Approve the attached resolution appropriating unanticipated revenue into the Environmental Health budget for improved information systems.

Sincerely,


 Charles Moody
 Health Services Agency Administrator


 Diane Evans, R.E.H.S.
 Environmental Health Director

Recommended


 Susan A. Mauriello
 County Administrative Officer

cc: CAO
 County Counsel
 Hazardous Materials Advisory Commission
 Health Services Agency
 Environmental Health

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

0227

Resolution No. _____

On the motion of Supervisor _____
duly seconded by Supervisor _____
the following resolution is adopted:

RESOLUTION ACCEPTING UNANTICIPATED REVENUE

Whereas, the County of Santa Cruz is a recipient of funds from Governor's Office of
Emergency Services ~~for~~ the Y2K Readiness of hazardous
~~materials facilities & handlers~~ program; and

WHEREAS, the County is recipient of funds in the amount of \$ 26,668 which are either in excess of those anticipated or are not specifically set forth in the current fiscal year budget of the County; and

WHEREAS, pursuant to Government Code Section 29130(c) / 29064(b), such funds may be made available for specific appropriation by four-fifths vote of the Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Santa Cruz County Auditor-Controller accept funds in the amount of \$ 26,668 into Department Health Services Agency

<u>TIC</u>	<u>Index Number</u>	<u>Revenue Subobject Number</u>	<u>Account Name</u>	<u>Amount</u>
001	362860	0690	ST-OTHER HEALTH AID	\$26,668

and that such funds be and are hereby appropriated as follows:

<u>T/C</u>	<u>Index Number</u>	<u>Expenditure Subobject Number</u>	<u>PRJ/UCD</u>	<u>Account Name</u>	<u>Amount</u>
001	362860	3665		PROFESSIONAL SERVICES	\$26,668

DEPARTMENT HEAD I hereby certify that the fiscal provisions have been researched and that the Revenue(s) (has been) (will be) recieved within the current fiscal year.

By Chalen Moody
Department Head

Date 4 26 99

COUNTY ADMINISTRATIVE OFFICER

 / Recommended to Board

 / Not recommended to Board

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 19____ by the following vote (requires four-fifths vote for approval):

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSENT: SUPERVISORS

Chairperson of the Board

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Henry A. Oberhelman III
County Counsel 12/16/97

APPROVED AS TO ACCOUNTING DETAIL:

Ronald J. Silow 9/22/99
Auditor-Controller

Distribution:

- Auditor-Controller
- County Counsel
- County Administrative Officer
- Originating Department

COUNTY OF SANTA CRUZ

REQUEST FOR APPROVAL OF AGREEMENT

4229

TO: Board of Supervisors
County Administrative Officer
County Counsel
Auditor-Controller

FROM: HEALTH SERVICES AGENCY (Dept.)
Charles M. Moody (Signature) 9/21/99 (Date)

The Board of Supervisors is hereby requested to approve the attached agreement and authorize the execution of the same.

1. Said agreement is between the SANTA CRUZ COUNTY (Agency)
GOVERNOR'S OFFICE OF EMERGENCY SERVICES
and P. O. BOX 419047, RANCHO CORDOVA, CA 95741-9047 (Name & Address)

2. The agreement will provide Funding for services--provided by EHS related to the assessment of
Hazardous Materials facilities and handlers with regard to their Y2K Readiness.

3. The agreement is needed. To allow for the reimbursement of time spent by staff in performing the
above mentioned assessments and report preparation.

4. Period of the agreement is from August 2, 1999 to March 31, 2000

5. Anticipated revenue cost is \$ 26,668 (Fixed amount; Monthly rate; Not to exceed)

6. Remarks:

7. Appropriations are budgeted in Revenue Account 362860 (Index#) 0690 (Subobject)

NOTE: IF APPROPRIATIONS ARE PENDING, PLEASE ATTACH COMPLETED FORM AUD-74

Appropriation are available and have been encumbered. Contract No. R-714 Date 9/22/99
GARY A. KNUTSON, Auditor - Controller
BY Ronald J. Siler Deputy.

Proposal reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the
to execute the same on behalf of the
(Agency).

Remarks:
By [Signature] County Administrative Officer Date 9/23/99
(Analyst)

Agreement approved as to form. Date

Distribution:
Bd. of Supv. - White
Auditor-Controller - Blue
County Counsel - Green *
Co. Admin. Officer - Canary
Auditor-Controller - Pink
Originating Dept. - Goldenrod
*To Orig. Dept. if rejected.
ADM - 29 (6/95)

State of California)
County of Santa Cruz) ss
I ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz,
State of California, do hereby certify that the foregoing request for approval of agreement was approved by
said Board of Supervisors as recommended by the County Administrative Officer by an order duly entered
in the minutes of said Board on
County Administrative Officer
Deputy Clerk

STANDARD AGREEMENT --- APPROVED BY THE ATTORNEY GENERAL
 STD 2 (REV. 5-91)

CONTRACT NUMBER 6099-9	AM. NO. 0230
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER	

THIS AGREEMENT, made and entered into this **2** day of **August**, 1999, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE Chief Of Administration	AGENCY GOVERNOR'S OFFICE OF EMERGENCY SERVICES
CONTRACTOR'S NAME Santa Cruz County Environmental Health	

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows: *(Setforth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)*

Whereas the **Governor's Office of Emergency Services (hereinafter "State")** and **Santa Cruz County Environmental Health, (hereinafter "Contractor")** believe it is necessary to immediately assess the Y2K readiness of hazardous materials facilities and handlers to protect the public health and safety from the potential of Y2K related accidental hazardous material releases, and to carry out the intent of Executive Order D-3-99, State and Contractor hereby agree as follows:

- I. **TERM:** The term of this agreement shall be from **August 2, 1999** through **March 31, 2000**.
- II. **COSTS:** The total cost of this agreement shall not exceed **\$26,668**.
- III. **ATTACHMENTS:** The attachments listed below are hereby incorporated into and made part of this Agreement:
 - Attachment A: Scope of Work
 - Attachment B: Costs
 - Attachment C: Invoice Detail
 - Attachment D: Bi-Weekly Activity Form
 - Attachment E: General Terms and Conditions

CONTINUED ON **17** SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this agreement.
 IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA	CONTRACTOR
AGENCY GOVERNOR'S OFFICE OF EMERGENCY SERVICES	CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.) Santa Cruz County Environmental Health
BY (AUTHORIZED SIGNATURE) >	BY (AUTHORIZED SIGNATURE) >
PRINTED NAME OF PERSON SIGNING Rich Fisher	PRINTED NAME AND TITLE OF PERSON SIGNING
TITLE Chief, Administration Branch	ADDRESS 701 Ocean Blvd, Suite 312 Santa Cruz, CA 95060

AMOUNT ENCUMBERED BY THIS DOCUMENT \$26668.00 PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$0.00 TOTAL AMOUNT ENCUMBERED TO DATE \$26668.00	PROGRAM/CATEGORY&ODE AND TITLE 99-Clearing Account		FUND TITLE General		Department of General Services Use Only
	(OPTIONAL USE) PCA 32001 Index 5410				
	ITEM 0690-001-001	CHAPTER 50	STATUTE 99	FISCAL YEAR 99/2000	
	OBJECT OF EXPENDITURE(CODE AND TITLE) 384 - Administrative				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.			T.B.A. NO.	B.R. NO.	
SIGNATURE OF ACCOUNTING OFFICER >			DATE		

CONTRACTOR
 STATE AGENCY
 DEPT. OF GEN. SER.
 CONTROLLER

STATE OF CALIFORNIA
STANDARD AGREEMENT
Std. 2 (5-91) (Reverse)

0231

_____ (initials)

1. ~~The Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this contract.~~
2. The Contractor, and the agents and employees of the Contractor, in the performance of the agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.
3. The State may terminate this agreement and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the State may proceed with the work in any manner deemed proper by the State. The cost to the State shall be deducted from any sum due the Contractor under this agreement, and the balance, if any, shall be paid the Contractor upon demand.
4. Without the written consent of the State, this agreement is not assignable by Contractor either in whole or in part.
5. Time is of the essence in this agreement.
6. No alteration or variation of the terms of this contract shall be **valid** unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
7. The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.
1. The State and Contractor agree to mutually indemnify, defend and save harmless each other, and their respective officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, **firm** or corporation furnishing or supplying work services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, **firm** or corporation who may be injured or damaged by the Contractor in the performance of this contract.

STD. 2 (cont.)

0232

Iv. **DEFINITIONS:**

A. For purposes of this Agreement, the following definitions shall apply unless otherwise required by the context:

1. “Designated facility or handler”, means a facility or handler that falls within any of the following programs or regulatory categories:
 - a.) Toxic Release Inventory (TRI);
 - b.) Air Sources • Toxic Hot Spots;
 - c.) Large Hazardous Waste Generators;
 - d.) Hazardous Waste Facilities;
 - e.) Site Mitigation Facilities;
 - f.) Pesticide Manufacturers;
 - g.) Chemical Manufacturers;
 - h.) Surface Water Dischargers;
 - i.) CalARP;
 - j.) Pipelines;
 - k.) Radioactive Substances;
 - l.) Medical Waste;
 - m.) Infectious Disease Handlers;
 - n.) Hazardous Materials/Extremely Hazardous Substances (EHS); and
 - o.) Subject to State concurrence, such other hazardous materials or substance facilities and/or handlers identified by the **Certified** Unified Program Agency (Contractor) as posing a potential threat to the health and safety of Californians or the environment due to the potential for an **Y2K** related accidental release.
2. “Criteria” means the criteria developed by the State to prioritize the potential for a **Y2K** related accidental hazardous material release at or by a designated facility or handler and/or additional criteria developed by the Contractor subject to approval by the State.
3. “Assessment” means a field or other review, as appropriate, to determine the **Y2K** readiness of a designated facility or handler utilizing the assessment tool developed by the State and/or modifications developed by the Contractor subject to approval by the State.
4. “Y2K” means the year 2000.

ATTACHMENT A: SCOPE OF WORK

0233

- A. Contractor shall cooperate in assisting and advising the State on the development, refinement and utilization of criteria to prioritize the potential for a Y2K related accidental hazardous material release at or by a designated facility or handler within its jurisdiction.
- B. Contractor shall cooperate in assisting and advising the State on the development, refinement and utilization of an assessment tool to determine the readiness of designated facilities and handlers for Y2K.
- C. If Contractor has previously conducted a triage and/or assessment to determine the Y2K readiness of hazardous material facilities and handlers within its jurisdiction, Contractor shall prepare and submit to State a report of its activities to prevent Y2K related accidental releases of hazardous materials within its jurisdiction.
1. The report shall be subject to State's approval, in the following format, and contain all necessary and appropriate information to fully inform State of Contractor's relevant activities and the Y2K readiness of hazardous material facilities and handlers within its geographical areas of responsibility:
 - a.) Cover Page
 - b.) Table of Contents
 - c.) Project Overview
 - d.) Triage Criteria Applied
 - e.) Triage Results
 - f.) Assessment Criteria Applied
 - g.) Assessment Results
 - h.) Follow Up Activity
 - i.) Follow Up Activity Results
 - j.) Conclusion
 - k.) Appendix A – Data Summary
 2. If Contractor has not completed or commenced the activities required to prepare any section of the report, Contractor shall so indicate in the appropriate section, and provide such information as may be available including, but not limited to, if and when such information is likely to be available or why such section is not applicable.
 3. The report shall be submitted to State no later than October 15, 1999, unless otherwise approved by State's Contract Manager.
- D. Contractor shall, to the extent it has not already done so:
1. Perform a triage to prioritize the potential for a Y2K related accidental hazardous material release at or by a designated facility or handler within its jurisdiction by reviewing the triaged list provided by State and modifying it, as appropriate,

pursuant to the criteria as defined in **IV.A.2** of the agreement, and such **additional** information as may be available to Contractor, subject to approval by State. ⁰²³⁴

2. Perform an assessment, pursuant to the assessment as defined in **IV.A.3** of the agreement, of designated facilities and handlers identified during the triage process and such other facilities and handlers as the Contractor determines may pose a potential risk of **Y2K** related accidental hazardous material release.
 3. Take such action as may be appropriate and legally available, after approval by State, to eliminate the risk and prevent an accidental hazardous material release by facilities and handlers not identified during the assessment as being **Y2K** ready. Such action may include, but is not limited to, working with/assisting facilities and handlers to ensure that they become **Y2K** ready on a timely basis and have a valid contingency plan in place. As a last resort, or if circumstances otherwise dictate, for those businesses that cannot be determined to be **Y2K** ready, refuse to take necessary accident prevention steps or will not allow government personnel to ascertain their **Y2K** readiness, such action may include the application of existing statutory and regulatory authority to modify a facility's or handler's operations and/or cause it to cease operations.
 4. Attend and/or assist in the development of regional training and informational meetings regarding the subject of this agreement.
 5. Submit data and reports to the State on a biweekly basis, or for such other periods as the Contractor and State may agree upon, and a **final** report regarding the status and results of its efforts under this agreement. The data shall be reported using Attachment D and reports shall be in such format as the Contractor and State shall mutually agree upon. If Contractor is a Participating Agency (**PA**) under the unified program administered by the California Environmental Protection Agency pursuant to SB 1082, Contractor shall timely provide a copy of each such report to its Certified Unified Program Agency (**CUPA**).
- E. Contractor may assist other jurisdictions in performing the activities described in D., above, if the provision of such assistance is approved by both the jurisdiction to be assisted and State.

ATT'ACHMENT B: COSTS

0235

- A. State shall reimburse Contractor as follows for activities identified in Attachment A; Paragraph C.:
1. The equivalent of the actual Personal Services and other Direct Expenses incurred by Contractor in performing the triage and assessments that form the basis of the report identified in Attachment A, Paragraph C.
- B. State ~~shall~~ reimburse Contractor as follows for activities identified in Attachment A, Paragraphs D. and E.:
1. Actual Personal Services costs incurred by Contractor in performing the identified activities; and
 2. Direct Expenses incurred by Contractor in performing the identified activities including, but not limited to, printing and postage.
- C. Notwithstanding any other provision of this agreement, the following shall not be eligible for reimbursement unless approved in writing by State's Contract Manager prior to the cost being incurred:
1. Travel and per diem, except for such meetings as may be required by State pursuant to Attachment A, Paragraph D.4.; and
 2. Equipment.
- D. Notwithstanding any other provision of this agreement, the total cost of this agreement shall not exceed Contractor's actual reasonable costs for covered activities or \$26,668, whichever is less.

**OES Y2K HAZARDOUS MATERIALS PROJECT
Attachment D: BIWEEKLY ACTIVITY REPORT**



0237

Agency Name: _____ Contract Number: _____
Date: _____ Reporting Period: _____

Reporting Period		Total Facilities	Not Started	Unknown	Concern*	Ready	Telephone Evaluation	Inspection by Letter	Site Visit
		M							
		H							
		M							
		H							
		M							
		H							
		M							
		H							
		M							
		H							
		M							
		H							
		NI							
		H							
		M							
Activity For Period									
Cumulative Y2K Status Count									

* Provide detail using "Facility/Handler Follow-Up List"

I certify that the above information, and the information contained on any attachments, is true and correct to the best of my knowledge.

Contact Name: _____

Contact Number: _____

Signature: _____

Attachment D (Page 3): INSTRUCTIONS

0239

Reporting Period: Enter in this column, the timeframe for which you are reporting the "Assessment and Follow-up Activity" results. This will either be the 1st through the 15th OR the 16th through the end of the month. (e.g. 8/16/99 - 8/31/99)

Total Facilities: Enter in this column, the total number of "Medium" and "High" priority hazardous materials facilities/handlers you intend to assess. Please refer to the "Triage Criteria" section in your "Implementation Tool Kit" for a description of "Medium" and "High" priority hazardous materials facilities/handlers.

Not Started: Enter in this column, the total number of those facilities/handlers that you have not started assessing.

Cumulative Y2K Status Count: "Cumulative Y2K Status Count" is comprised of the following three columns: (a) Unknown, (b) Concern, and (c) Ready.

Unknown: Enter in this column, the total number of those facilities/handlers whose Y2K status is not yet known.

Concern: Enter in this column, the total number of those facilities/handlers who have: (a) Low or Medium level of Y2K preparedness, AND (b) Medium or High level of vulnerability to Y2K related hazardous materials release. Please refer to the "Facility Exception List" for the reporting format you are requested to use for providing additional information on such facilities/handlers.

Ready: Enter in this column, the total number of those facilities/handlers who have: (a) High level of Y2K preparedness, OR (b) Low level of vulnerability to Y2K related hazardous materials release.

Activity For Period: "Activity For Period" is comprised of the following three columns: (a) Telephone Evaluation, (b) Inspection by Letter, and (c) Site Visit.

Telephone Evaluation: Enter in this column, the total number of telephone evaluation conducted for the reporting period. Scheduling meetings and follow-up call activities should not be included in this column.

Inspection by Letter: Enter in this column, the total number of inspections performed by letters for the reporting period. For the purposes of this column, report only the number of inspection letters sent during the period.

Site Visit: Enter in this column, the total number of site visits performed for the reporting period. It is possible that a facility is visited twice in which case both site visits should be included in the site visit count.

Important - Please note that the sum of the "Not Started", "Unknown", "Concern", and "Ready" columns for each reporting period should equal the total number of facilities.

Attachment D (Page 4): Sample Matrix For LIA Reference

Reporting Period	Total Facilities	Not Started	Unknown	Concern	Ready	Telephone Evaluation	Inspection by Letter	Site Visit	Cumulative Y2K Status Count		Activity For Period	
									M	H	M	H
PRIOR to 8/1/99	25	20	4	0	1	4	5	0	M	15	H	0
8/1/99 - 8/15/99	25	9	11	0	5	5	15	3	M	25	H	3
8/16/99 - 8/31/99	25	0	15	0	10	2	6	4	M	25	H	4
9/1/99 - 9/15/99	25	0	10	0	15	5	0	4	M	25	H	5
9/16/99 - 9/30/99	26	0	5	1	20	1	0	3	M	26	H	3
10/1/99 - 10/15/99	26	0	3	1	11	0	0	3	M	26	H	5
10/16/99 - 10/31/99	26	0	0	1	13	0	0	3	M	26	H	0
	15	0	0	1	14	0	0	1	M	15	H	0

0240

ATTACHMENT E: GENERAL TERMS AND CONDITIONS

A. GENERAL CLAUSES

1. **STATE CONTRACT MANAGER:** State's Contract Manager for this agreement is Steven DeMello or his designee, Governor's Office of Emergency Services, Planning and Technological Assistance Branch, Y2K Hazardous Materials Project, P.O. Box 419047, Rancho Cordova, California 95741-9047, (9 16) 464-3720.
2. **CONTRACTOR CONTRACT MANAGER:** Contractor's Contract Manager for this agreement is Steven Schneider. (831) 454-2022.
3. **CHANGE IN CONTRACT MANAGER:** Either party may change its Contract Manager by providing written notice to the other. Changes in Contractor's Contract Manager are subject to approval by State.
4. **PROPERTY:** All equipment, materials, supplies, hardware and other items purchased with funds under this agreement that remain at the termination of the agreement shall be returned to and remain the property of the State.
5. **PAYMENT AND INVOICING:** Payments for invoices shall be made not more than monthly in arrears. Contractor shall submit invoices, Attachment C, in triplicate in arrears, each of which shall contain the above noted Contract Number and be subject to State approval. Invoices and supporting documentation shall be mailed to:

Cindy Nolan
Y2K Hazardous Materials Project
Governor's Office of Emergency Services
P.O. Box 419047
Rancho Cordova, CA 95741-1677
6. **MEETINGS:** Contractor's Contract Manager or other duly authorized designee shall attend such State sponsored meetings as the State determines may be reasonably necessary for the proper implementation of this Agreement.
7. **TRAVEL:** Reimbursement for travel and per diem shall not exceed currently approved rates for State employees.
8. **DISPUTES:** State's Contract Manager shall have initial jurisdiction over each controversy arising under or in connection with the interpretation, performance, or payment under this agreement. The Contractor will diligently pursue with the State's Contract Manager mutually agreeable settlement of any such controversy. In the event a dispute cannot be resolved by mutual agreement, the State's Contract Manager shall promptly issue a written decision in the matter which shall be mailed or otherwise furnished to the Contractor

and which shall inform the Contractor of its right to appeal the decision provided herein. Contractor shall have fifteen (15) calendar days from receipt of the decision to submit a written protest of the decision to the Director, Office of Emergency Services. The decision of State's Contract Manager shall be **final** and conclusive unless it is appealed by Contractor within the specified period. Pending final decision of any dispute hereunder, Contractor shall proceed with the performance of this agreement, unless otherwise directed by State.

9. **REDUCTION OF FUNDS:** If the Contractor does not complete the activities described in Attachment A, Item D.1, and 2 by October 15, 1999, or the activities described in Attachment A, Item D.3 by December 1, 1999, State may, in its discretion, after consultation with Contractor, immediately reduce the maximum funds available under this agreement as described in Attachment B, Paragraph D, to the amount actually expended by Contractor prior to such action and reallocate the unexpended remaining funds.
10. **APPROVAL:** This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
11. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
12. **ASSIGNMENT:** This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written **amendment**.
13. **AUDITOR:** Contractor agrees that the awarding department, the Department of General Services, the **Bureau** of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).
14. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
15. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this

Agreement, regardless of whether the product meets the required recycled product percentage as defined in the public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354) ⁰²⁴³

16. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

B. **CERTIFICATION CLAUSES:**

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the **nondiscrimination** program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8 103) (Not applicable to public entities.)
2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. 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.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.

- c. Provide that every employee who works on the proposed Agreement Will: 0244
- 1) receive a copy of the company's drug-free policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:**

Contractor certifies that no more than one (1) **final** unappealable **finding** of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

4. **CONFLICT OF INTEREST:** Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

a. Current State Employees (PCC 10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, **activity** or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

b. Former State Employees (PCC 10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the **twelve-month** period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the **12-month** period prior to his or her leaving state service.

c. If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void (PCC 10420) 0245

d. Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

5. **LABOR CODE/WORKERS' COMPENSATION:** Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

6. **AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

7. **CONTRACTOR NAME CHANGE:** An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

8. **CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the Contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

9. **RESOLUTION:** A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

10. **AIR OR WATER POLLUTION VIOLATION** Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water

pollution.

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11. **VENDOR DATA RECORD FORM STD. 204**: This form must be completed by all contractors that are not another state agency or other government entity.
12. **TIMELINESS**: Time is of the essence in this Agreement.
13. **COMPENSATION**: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. **GOVERNING LAW**: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. **ANTITRUST CLAIMS**:
 - a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
 - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the **Cartwright** Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services **by the bidder** for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders **final** payment to the bidder. Government Code Section 4552.
 - c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
16. **YEAR 2000 LANGUAGE:** “The Contractor warrants and represents that the goods or services sold, leased, or licensed to the State of California, its agencies, or its political subdivisions, pursuant to this contract are “Year 2000 compliant.” For purposes of this contract, a good or services is Year 2000 compliant if it will continue to fully function before, at, and after the Year 2000 without interruption and, if applicable, with full ability to accurately and unambiguously process, display, compare, calculate, manipulate, and otherwise utilize date information. This warranty and representation supersedes all warranty disclaimers and limitations and all limitations on liability provided by or through the Contractor.”
17. **CHILD SUPPORT COMPLIANCE ACT:** “For any contract in excess of \$100,000, the Contractor acknowledges in accordance with, that:
- a. The Contractor recognizes the importance of child and **family** support obligations and shall fully comply with all 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
- b. The Contractor, 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 Hire Registry maintained by the California Employment Development Department.”
18. **UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that **all** other provisions of this Agreement have force and effect and shall not be effected thereby.