



County of Santa Cruz 0171

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060

(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

February 8, 2001

Agenda: March 6, 2001

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

OIL SPILL CONTINGENCY PLANNING GRANT

Dear Members of the Board:

As you may recall, the Federal Oil Spill Pollution Act of 1990 required the establishment of Area Committees, chaired by the United States Coast Guard, for the purpose of preparing and revising Area Contingency Plans for the preplanning of oil spill prevention and response efforts. The legislation mandated yearly revisions to the Area Contingency Plan (ACP) for five consecutive years; then every three years thereafter. Completion of the fifth revision effort occurred in the Fall of 1998. The Area Committee process has proven so useful that the U.S. Coast Guard has decided to continue the Committee meetings on an ongoing basis.

At the state level, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (SB 2040) created the Office of Oil Spill Prevention and Response within the California Department of Fish and Game (CDFG). In the event of an oil spill, State regulations conditioned local government participation in the unified command on the following:

- (1) Completion of a local oil spill contingency plan;
- (2) A signed Memorandum of Understanding (MOU) between the State and local government for the purpose of ensuring informed representation and a unified and coordinated effort; and
- (3) Participation in the U.S. Coast Guard's Area Committee planning process.

The regional Santa Cruz/Monterey Counties Oil Spill Contingency Plan was accepted by your Board on March 22, 1994 and a Memorandum of Understanding was approved by your Board on May 19, 1998. In recognition of the importance of local government involvement in the Area Committee planning process the CDFG is again offering grants to local governments for the purpose of offsetting costs related to participation.

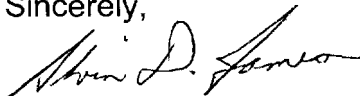
The CDFG has awarded Santa Cruz County a grant in the amount of \$5000 for staff's continued participation through the calendar year 2001 Area Committee planning process. We have been advised by the CDFG contracts office of limits for the reimbursement of overhead to an amount not exceeding thirty percent (30%) of the total cost of labor. The grant amount and limited recapture of overhead costs have not been incorporated into either the General Services or the Planning Department's 2000/2001 budget.

The grant agreement with the CDFG is included for your information as Attachment 1. A resolution accepting the terms of the grant agreement and authorizing the Planning Director to execute and submit all documents necessary for the completion of the project is presented as Attachment 2. As it was unclear whether the grant was going to be awarded at the time of the County's budget preparation it is necessary for your Board to also adopt a resolution accepting and appropriating unanticipated revenue in the amount of \$5,000 (\$1,723.40 into the General Services-budget and \$3,276.60 into the Planning budget).

It is therefore RECOMMENDED that your Board take the following actions:

- (1) Adopt the resolution (Attachment 2) accepting a grant in the amount of \$5,000 from the Department of Fish and Game for reimbursement of costs related to participation in the oil spill planning process retroactive to January 1, 2001; and
- (2) Authorize the Planning Director to execute the grant agreement (Attachment 1); and
- (3) Adopt the resolution (Attachment 3) accepting and appropriating \$5,000 in unanticipated revenue (\$1,723.40 into the General Services budget and \$3,276.60 into the Planning Department budget).

Sincerely,

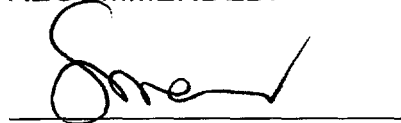


ALVIN D. JAMES
Planning Director



BOB WATSON
General Services Director

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

- Attachments:
- 1) Grant Amendment Agreement (ADM-29)
 - 2) Proposed Resolution Accepting Grant Agreement
 - 3) Proposed Resolution Accepting and Appropriating Unanticipated Revenue (AUD-60)

COUNTY OF SANTA CRUZ
REQUEST FOR APPROVAL OF AGREEMENT

ATTACHMENT 1

0173

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

FROM: Planning (Dept.)
[Signature] (Signature) 2/22/01 (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 Planning Department (Agency)
California Department of Fish and Game, Office of Oil Spill Prevention and Response
and, P. O. Box 944209, Sacramento, CA 94244-2090 (Name & Address)

2. The agreement will provide funds for the reimbursement of costs incurred while participating in
the Federal Oil Spill Planning process.

3. The agreement is needed to allow the County to accept these funds.

4. Period of the agreement is from January 1, 2001 to June 30, 2001

5. Anticipated ~~cost~~ ^{revenue} is \$ 5,000.00 - ~~XXXXXXX, XXXXX, XXXX~~ (Not to exceed)

6. Remarks: To be placed on continuing agreements list for 2001-2002.

7. Revenue is XXXXXXX budgeted in 542400 (\$3,276.60) 302100 (\$1,723.40) (Index#) 0894 (Subobject)

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

Appropriations are available and have been encumbered. Contract No. R 749 Date 2/23/01
are not available and will be encumbered.

n/a

GARY A. KNUTSON, Auditor - Controller
By [Signature] Deputy.

Proposal reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the Planning Director to execute the same on behalf of the County of Santa Cruz

Department (Agency). County Administrative Officer

Remarks: [Signature] (Analyst) By [Signature] Date _____

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.

Slate 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
_____ 19 _____ By _____ Deputy Clerk

40

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

RESOLUTION NO. _____

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

RESOLUTION ACCEPTING UNANTICIPATED REVENUE

WHEREAS, County of Santa Cruz is a recipient of funds from the California Department of Fish and Game, and

WHEREAS, the County is a recipient of funds in the amount of \$5,000 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 a 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 \$5,000 into

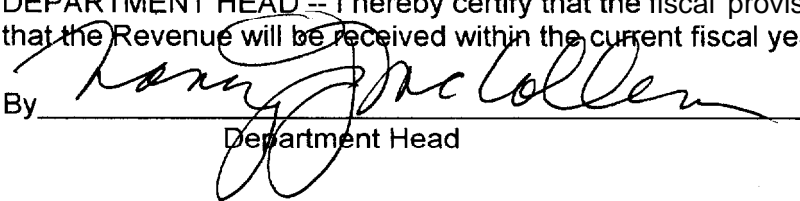
Department(s): Planning and General Services

		Revenue				
T/C	Index Number	Sub-Object Number	UCD	Account Name	Amount	
001	542400	0894		State-Other	\$3,276.60	
001	302100	0894		State-Other	1,723.40	

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

		Expenditure				
T/C	Index Number	Sub-Object Number	UCD	Account Name	Amount	
021	542400	3100		Regular Pay	\$3,276.60	
021	542400	3100		Regular Pay	1,723.40	

DEPARTMENT HEAD -- I hereby certify that the fiscal provisions have been researched and that the Revenue will be received within the current fiscal year.

By  Date 8/8/01
Department Head

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 _____ 2001 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:

[Signature]

County Counsel

542400

APPROVED AS TO ACCOUNTING DETAIL:

[Signature] 2/23/01

Auditor-Controller

Distribution:
Auditor-Controller
County Council.
County Administrative Officer
Originating Department

ATTACHMENT 2

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

RESOLUTION NO. _____

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

RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$5,000 FROM THE
DEPARTMENT OF FISH AND GAME FOR THE REIMBURSEMENT OF COSTS RELATED TO
PARTICIPATION IN THE FEDERAL OIL SPILL CONTINGENCY PLANNING PROCESS

WHEREAS, the people of the State of California enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 which appropriates funds for grants to local governments for the preparation or revision of oil spill contingency plans; and

WHEREAS, the County of Santa Cruz has completed a regional oil spill contingency plan in collaboration with Monterey County: and

WHEREAS, the Department of Fish and Game, Office of Spill Prevention and Response (OSPR), is delegated with the responsibility for implementation of the grant program within the state; and

WHEREAS, OSPR is offering a grant award in the amount of \$5,000 for the reimbursement of costs incurred by Santa Cruz County while participating in the state and federal Area Contingency Planning process; and

WHEREAS, the County of Santa Cruz is willing to enter into the grant agreement with the State of California;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Board of Supervisors of the County of Santa Cruz by adoption of this resolution hereby agrees to the terms and conditions set forth in the grant agreement and authorizes the Director of the Planning Department as agent of the County to execute and submit all documents, including, but not limited to agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

ATTACHMENT 2

RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$5,000 FROM THE DEPT. OF FISH AND GAME

Page 2

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this day of _____, 2001, by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairperson of the Board of Supervisors

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM:



County Counsel

DISTRIBUTION: County Counsel
Planning Department - Resources Section
County Administrative Office
General Services
Auditor-Controller

STANDARD AGREEMENT

APPROVED BY THE ATTORNEY GENERAL

STD. 2 (EV. 5-01)

CONTRACT NUMBER P0075029 AM. NO. TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER 94-6000534

THIS AGREEMENT, made and entered into this 1st day of January, 2001, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

0178

TITLE OF OFFICER ACTING FOR STATE DIRECTOR AGENCY DEPARTMENT OF FISH AND GAME CONTRACTOR'S NAME SANTA CRUZ COUNTY

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: (Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)

- 1. This grant agreement is hereby entered into by and between the California Department of Fish and Game (DFG), represented by the Office of Spill Prevention and Response, hereafter referred to as "CDFG" or "State" and Santa Cruz County, hereafter referred to as "Contractor" pursuant to the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Chapter 1248, Statutes of 1990, commencing with Section 8670.1 of the Government Code).
2. The Contractor agrees to provide all personnel, space, labor, materials, tools, equipment, and incidentals necessary in accordance with the attached Exhibit A entitled "San Diego County, Scope of Work" consisting of two (2) pages, and made a part of this contract by this reference.

The County is aware that the area committee within the local Marine Safety Office (MSO) jurisdiction is responsible for establishing the schedule of meetings and working sessions necessary to complete the Area Contingency Plan (ACP) update. A maximum degree of communication between the area committees and all participants will be vital. Networking and sharing of information will be essential. The State will be responsible for ensuring that for each subject area, the area plan includes input representative of local government information.

3. Term of Agreement

- A. Term of this agreement shall be from January 1, 2001 through December 31, 2001. The term of this agreement may be extended by mutual consent of both parties through an amendment

APPROVED AS TO FORM Alvin D. James Chief Assistant County Counsel

CONTINUED ON 10 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 DEPARTMENT OF FISH AND GAME SANTA CRUZ COUNTY Michael F. Harris Alvin D. James, Planning Director 701 Ocean Street, Room 400, Santa Cruz, CA 95060 LOCAL ASSISTANCE Prev. & Adm 3600-101-320 52 2000 00/01 Index N130 Object 418 PCA R0000 Activity 511530

Department of General Services Use Only This agreement is exempt from General Services approval pursuant to Section 1215 of the State Admin. Manual.

SIGNATURE OF ACCOUNTING OFFICER DATE 10/25/00 CONTRACTOR STATE AGENCY DEPT. OF GEN. SER. CONTROLLER

STANDARD AGREEMENT

STD. 2 (REV. 5-91) (REVERSE)

0179

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 Contractor, in the performance of the agreement, shall act in an independent capacity and not as officers or employees or agents of 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 p&d 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.

[Faint, illegible text and markings at the bottom of the page, including a large number '40' and a date stamp '91 61014']

4. Maximum Amount Payable/Limitation of State Liability

- A. The maximum amount payable under the terms of this Grant Agreement shall not exceed the sum of \$5,000 including all applicable taxes and expenses.

Said amounts shall not exceed the amounts delineated in the attached budget detail, Exhibit B entitled "Budget", consisting of one page and made a part of this agreement by this reference.

- B. Funds in the attached Exhibit B will not be shifted between line items without prior written approval of the State's Grant Coordinator.

5. Payment Provision

- A. Funds payable under this agreement are provided for uses consistent with those described in statute under Government Code Section 8670.38.

- B. The approved budget is an estimate of the Contractor's anticipated costs of performance. Actual invoiced expenses must be charged against specific categories in the approved budget. If required by actual costs, the State may approve and reimburse expenditures in any of the budgeted categories in excess of the estimated costs, provided there is offsetting, decreased expenditures in other budgeted categories. Such requests for budget category changes shall be made and approved in writing to the State's Grant Coordinator as follows:

- (1) A written explanation which justifies the need for the proposed changes and that the changes will not affect the completion of the proposal as defined in the attached Exhibit A, entitled "Scope of Work".
- (2) Identification of the line-item categories in Exhibit B **and** the amount by which each will be reduced or increased.

- C. Payments shall be made not more than monthly in arrears upon receipt of an acceptable progress report and invoice for actual expenses incurred during the invoice period, Invoices must be itemized with supporting actual receipts and supporting documentation of the invoices, using the categories and following the format of the attached Exhibit B.

PO075029
Santa Cruz County

- D. Invoices shall be submitted in triplicate under letterhead of the Contractor and shall contain the Contractor's assigned agreement number PO075029 and shall be sent to the following location:

California Department of Fish and Game
 Office of Spill Prevention and Response
 P.O. Box 944209
 Sacramento, CA 94244-2090
 Attn: Cindy Murphy

- E. All invoices are subject to the approval by the State's appointed Grant Coordinator as designated in paragraph 6.A.

6. Agency Representatives

A. STATE

Ms. Cindy Murphy
 California Department of Fish and Game
 Office of Spill Prevention and Response
 P.O. Box 944209
 Sacramento, CA 94244-2090
 Phone: (916) 327-9946
 Fax: (916) 327-0907

CONTRACTOR

Ms. Donna Bradford
 Santa Cruz County
 Planning Department
 701 Ocean Street, Rm 400
 Santa Cruz, CA 95060
 Phone: (83 1) 454-3 105
 Fax: (83 1) 454-213 1

- B. The Contractor shall notify the CDFG immediately in writing of any proposed change of said contract administrator designated by the Contractor. The CDFG reserves the right to approve or disapprove any proposed contract administrator designated by the Contractor.

7. Close Out Provision

To ensure payment and allow for an adequate amount of time to process the payment (s) and close the appropriation, all invoices for work performed and charged against this grant must be received and approved by the State's Grant Coordinator no later than April 15, 2003.

8. Standard Clauses/Special Provisions

The attached Exhibit PE, entitled "Standard Clauses, Agreements with the Public Entities", consisting of four (4) pages and Exhibit SP 8, entitled "Special Provision 8, Progress Payments/Payment Retention Clause", consisting of one (1) page are made a part hereof by this reference.

EXHIBIT A

SCOPE OF WORK

A. GOALS AND OBJECTIVES:

The primary objective for participating in the Coast Guard's Area Planning process is to assist in the update of the Federal Area Contingency Plan (ACP) in order to ensure consistency between the Federal, State and Local Contingency Plans. The goals are:

- 1) To ensure that important concerns of Santa Cruz County are addressed in the Federal ACP to the greatest extent possible; and
- 2) To identify differences between the Federal ACP and Santa Cruz County Oil Spill Contingency Plan Element resulting from the ACP revisions. The new information identified shall be the basis for future updates and revisions to the existing Local Government Oil Spill Contingency Plan on file with the CDFG.

B. PARTICIPATION METHODOLOGY:

Santa Cruz County has been responsible for preparing a local oil spill contingency plan element, through the grant program of CDFG. The staff involved in the contingency planning efforts have considerable knowledge and are familiar with the requirements of the ACP. Listed below are the staff we expect to participate in the Coast Guard Area Planning process:

Donna Bradford, Resource Planner III, Santa Cruz County

Activities that the staff will perform include, but may not be limited to:

- 1) Attend Area Committee and Sub-Committee meetings, as appropriate.
- 2) Review Coast Guard Area Contingency Plan.
- 3) Draft and provide local government input to Area Plans.
- 4) Compare Coast Guard Area Contingency Plan information to the Local Government Oil Spill Contingency Plan and document the differences resulting from the update; to include identification of equipment and resource gaps.
- 5) Attend drills and exercises.
- 6) Prepare and submit a final report.
- 7) Prepare documentation and submit invoices for reimbursement.

PO075029
Santa Cruz County

Page 2 of 2

C. TIMEFRAMES:

Santa Cruz County is aware that the area committee within the local Marine Safety Office (MSO) jurisdiction is responsible for establishing the schedule of meetings and working sessions necessary to revise and exercise the ACP. A maximum degree of communication between the area committees and all participants will be vital. Networking and sharing of information will be essential. The CDFG is responsible for ensuring that for each subject area, the area plan includes input from a representative from Santa Cruz County.

D. CONCLUSION:

Thirty (30) days after Santa Cruz County has completed participating in the ACP process, a written report will be submitted to Ms. Cindy Murphy, State's Grant Coordinator, Department of Fish and Game, Office of Spill Prevention and Response, P.O. Box 944209, Sacramento, California 944209-2090 to include, but not be limited to:

- 1) Summary of the inconsistencies noted between the Federal Area Contingency Plan and the Local Government Oil Spill Contingency Plan Element resulting from the ACP update, to include a Resource Shortfall Analysis (i.e., differences in identified versus needed equipment and resources). Any findings, conclusions or recommendations for additional activities which resulted from participation on the Area Committee.
- 2) A list of employees who participated, in whole or in part, including names, addresses, agency and position title.
- 3) Discussion of any difficulties or special problems encountered or anticipated between the ACP and the local government plan element.
- 4) Documentation to substantiate meeting dates, locations, agenda items and participants.
- 5) Report of any changes in personnel assigned to participate in the area planning process.
- 6) Summary of updates (if any) made in the local contingency plan.

P0075029
Santa Cruz County

EXHIBIT B

PERSONNEL SERVICES

SANTA CRUZ COUNTY

Donna Bradford, Resource Planner III (62 hours @ \$28.92 per hour)	\$ 1,793.04
Emergency Services Coordinator (35 hours @ \$37.93 per hour)	1,327.55
Staff benefits @ approx. 29.5%	920.57
	<hr/>
Total Personnel Services	\$ 4,041.16

OPERATING EXPENSES

Travel (mileage rate not to exceed 31 per mile)	22.66
	<hr/>
Total Operating Expense	\$ 22.66

OVERHEAD

Santa Cruz County @ 30% on direct labor of \$3,120.59	\$ 936.18
	<hr/>
Total Overhead	\$ 936.18

<u>TOTAL BUDGET</u>	\$ 5,000.00
----------------------------	--------------------

State of California

The **Resources** Agency

DEPARTMENT OF FISH AND GAME

**STANDARD CLAUSES
AGREEMENTS WITH PUBLIC ENTITIES****Commencement of Work**

This agreement is of no force and **effect** until signed by both parties and approved by the Department of Fish and Game and/or the Department of General Services as pursuant to PCC §§**10335, 10360** and 10295. Any work initiated prior to the approval date is done at the Contractor's own risk. Absolutely no expenses incurred prior to the effective date of this agreement will be approved for payment.

Availability of Funds

Work to be performed under this agreement is subject to availability of **funds** through the State's normal budget process.

Contractor Name Change

Contractor shall provide a **written** notice to the State at least thirty (30) days prior to any changes to the Contractor's current legal name.

Documents and Written Reports

Any document or written report prepared as a requirement of this agreement shall contain, in a separate section preceding the main body of the document, a disclosure statement indicating that such was prepared through agreement with the Department of Fish and Game and shall further contain the agreement number and dollar amount of all agreements and subcontracts relating to the preparation of such document or report.

Inspection

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made by the State of the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the State representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

Nondiscrimination Clause - Excluding Agreements with Federal Entities

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), medical condition (cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. Contractors 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 subcontractor shall comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder. 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 is 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.

Americans With Disabilities Act

By signing this agreement, Contractor assures the state that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Recycling Certification

Contractor shall certify in **writing** under penalty of perjury that the minimum, if not exact, percentage of the materials, goods, supplies ordered, or products used in the performance of this contract meets or exceeds the minimum percentage of recycled material as **defined** in PCC §§ 12161 and 12200. The Contractor may **certify** that the product contains zero recycled content. (PCC §10233)

Air and 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.

Child Support Compliance Act

For any agreement 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.

Drug-Free Workplace Requirements

By signing this agreement, the Contractor hereby certifies under penalty of perjury under the State laws that the 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:

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.
2. Establish a Drug-Free Awareness Program to inform employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The person's or organization's policy of maintaining a drug-free workplace;
 - c. Any available counseling, rehabilitation and employee assistance programs' and,
 - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide that every employee who works on the proposed agreement:
 - a. Will **receive** a copy of the company's **drug-free** policy statement; and,
 - b. Will 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 the 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 (2) violated the certification by failing to **carry** out the requirements as noted above. (GC §8350 et seq.)

National Labor Relations Board Clause

By signing this agreement, Contractor declares under penalty of perjury that no more than one **final**, unappealable finding of contempt of court by a Federal Court has been issued against the Contractor within the immediately preceding two (2) 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)

Agreement Dispute Clause

The State's Contract Manager has 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 his right to appeal the decision as provided herein. The Contractor shall have **fifteen** (15) calendar days **from** receipt of the decision to submit a written protest of the decision to the Deputy Director, Administration, Department of Fish and Game. The decision of the State's Contract Manager shall be final and conclusive unless it is appealed by the Contractor within the specified period. Pending **final** decision of dispute hereunder, the Contractor shall proceed with the performance of this agreement, unless otherwise directed by the State.

Workers' Compensation Clause

Contractor agrees to the provisions of Section 3700 of the Labor Code which require every employer to be insured against **liability** for workers' compensation, or to undertake self-insurance in accordance with such provisions, and Contractor agrees to comply with such provisions before commencing the performance of the work under this agreement.

Travel and Per Diem

Contractor agrees that all travel and per diem paid its employees under this contract shall be at rates not to exceed those amounts paid to the State's represented employees under collective bargaining agreements currently in effect. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State. (CCR, Title 2, §599.615 et seq.)

Use of Subcontractors

If the contractor desires to accomplish all or part of the services through the use of one or more subcontractors then the following conditions must be met: 1) the contractor will competitively bid any required subcontracts; 2) the contractor shall submit any subcontracts to the State for prior approval; 3) the contract between the primary Contractor and the subcontractor must be in writing; 4) the subcontract must include specific language which establishes the rights of the auditors of the State to examine the records of the subcontractor relative to the services and materials provided under the contract; and 5) upon termination of any subcontract, the State shall be notified immediately in writing. Further, any subcontract in excess of \$10,000 entered into as a result of this agreement shall contain all applicable provisions stipulated in this agreement.

Audit Clause

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 pertaining to the performance of this agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years **from** the final payment made by the State, unless a longer period of records retention is stipulated elsewhere in this agreement. 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 of **staff** in any subcontract related to performance of this agreement. (GC § 8546.7, PCC §10115 et seq., CCR Title 2, § 1896.60 et seq.)

Conflict of Interest-Current and Former State Employees

Current State Employees

No **officer** or employee shall engage in any employment, activity, or enterprise from which the **office** 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. 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. (PCC §10410)

Former State Employees

For the two-year period from the date he or she left State employment, no former State officer or employee may enter into an agreement 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 agreement while employed in any capacity by any State agency.

For the twelve-month period from the date he or she **left** State employment, no former State **Officer** or employee may enter into an agreement 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 twelve-month period prior to his or her leaving State service. (PCC §104 11)

Priority Hiring Considerations

If this agreement is in excess of \$200,000, the Contractor agrees to give priority consideration in filling vacancies in positions funded by the agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200. (PCC \$10353)

Amendment Clause

This agreement may be amended in writing, and not otherwise, as mutually agreed upon by the parties hereto. The amendment shall be subject to the approval of the Department of General Services, unless otherwise exempted.

Termination Clause

The State shall have the right to terminate this agreement at its sole discretion at any time upon giving thirty (30) days written notice to the Contractor. In case of early termination, a final payment will be made to the Contractor upon receipt of a report covering costs incurred up to notice of termination, based on the portion of work completed.

0189

SP 8

Agreement No. PO075029

State of California

The Resources Agency

DEPARTMENT OF FISH AND GAME

SPECIAL PROVISION 8

Progress Payments/Payment Retention Clause

Progress payments are partial payments of the agreement price and are based on the performance schedule in the agreement. For any contract allowing progress payments to the Contractor (monthly, quarterly, semi-annually) or other terms in which the Contractor is paid on a basis other than lump sum, each invoice for payment must be accompanied by a written description, not to exceed one page in length, of the Contractor's performance under this agreement since the time the previous such report was prepared. The report should describe the types of activities and specific accomplishments during the period rather than merely listing the number of hours worked during the reporting period.

Progress payments to Contractors for work performed or costs incurred in the performance of the agreement are allowed, provided that not less than 10 percent of the agreement amount shall be withheld pending satisfactory completion of all services under the agreement. However, if the agreement consists of the performance of separate and distinct tasks, then any funds so withheld with regard to a particular task may be paid upon completion of that task.

Contractor is required to submit a final invoice for the agreement retention amount.