

AGREEMENT FOR THE 2017-2019 AQUATIC VEGETATION MANAGEMENT PROGRAM

This Agreement is made and entered into by and between the County of Lake, hereinafter referred to as "County", and Clean Lakes Inc., hereinafter referred to as "Contractor", collectively referred to as the "parties".

1. **SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to County the services described in the Scope of Services attached hereto and incorporated herein as Exhibit B at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibits B and C, the Agreement shall prevail.

2. **TERM.** This Agreement shall commence on _____ 2017, and shall terminate on _____ 2019, unless earlier terminated as hereinafter provided. In the event County desires to temporarily continue services after the expiration of this Agreement, such continuation shall be deemed on a month-to-month basis, subject to the same terms, covenants, and conditions contained herein.

3. **COMPENSATION.** Contractor has been selected by County to provide the services described hereunder in Exhibit "B" (Scope of Services), attached hereto. Compensation to Contractor shall not exceed \$234,668.00 for 2017, and may vary with County budget appropriations in subsequent years.

The County shall compensate Contractor for services rendered, in accordance with the provisions set forth in Exhibit "C" (Fiscal Provisions), attached hereto, provided that Contractor is not in default under any provisions of this agreement. Compensation to Contractor is contingent upon appropriation of federal, state and county funds.

4. **TERMINATION.** This Agreement may be terminated by mutual consent of the parties or by County upon 10 days written notice to Contractor.

In the event of non-appropriation of funds for the services provided under this Agreement, County may terminate this Agreement, without termination charge or other liability.

Upon termination, Contractor shall be paid a prorated amount for the services provided up to the date of termination.

5. **MODIFICATION.** This Agreement may only be modified by a written amendment hereto, executed by both parties; however, matters concerning scope of services which do not affect the compensation may be modified by mutual written consent of Contractor and County executed by Philip B. Moy.

6. **NOTICES.** All notices between the parties shall be in writing addressed as follows:

County of Lake
Water Resources Department
255 N. Forbes Street
Lakeport, California 95453
Attn: Philip B. Moy, PhD

Clean Lakes Inc.
P.O. Box 3186
Martinez, California 94553

Attn: Thomas J. McNabb

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7. **EXHIBITS.** The Agreement Exhibits, as listed below, are incorporated herein by reference:

Exhibit B – Scope of Services
Exhibit C – Fiscal Provisions
Exhibit D – Compliance Provisions

8. **TERMS AND CONDITIONS.** Contractor warrants that it will comply with all terms and conditions of this Agreement and Exhibits, and all other applicable federal, state and local laws, regulations and policies.

9. **INTEGRATION.** This Agreement, including attachments, constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior Agreements, related proposals, oral and written, and all negotiations, conversations or discussions heretofore and between the parties.

Executed at Lakeport, California on _____.

COUNTY OF LAKE

CONTRACTOR

CHAIR, Board of Supervisors

Clean Lakes Inc.

ATTEST:
CAROL J. HUCHINGSON
Clerk to the Board of Supervisors

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

By: _____

By: _____

EXHIBIT "B" – SCOPE OF SERVICES

1. **CONTRACTOR RESPONSIBILITIES.**

Treatment Areas-Project Locations: The Project locations are broken down into 36 areas which include:

- ☐ Shoreline lanes that are a 50 or 100 ft. wide strip of water parallel to the shoreline whose leading edge touches the lake ward end of the water front structures to create a gently curving navigational lane.
- ☐ Boat Lanes that are 100 ft. wide strips of water perpendicular to the shoreline of varying lengths providing a navigational channel leading out to weed-free water of Clear Lake.
- ☐ Recreational areas that can be harbors, marinas, public boat docks and boat ramps, public fishing areas from piers, and swim areas identified by swim buoys.

Treatment Standards-Threshold of Vegetation Growth: The objective of the Lake County aquatic vegetation control program is three-fold:

- ☐ 1: Boat Lanes and Shoreline Lanes: Maintain a weed-free zone with plant growth at a minimum of four feet below the water surface to facilitate recreational motorized and non-motorized boat use in Clear Lake.
- ☐ 2: Other Recreational Areas: Including harbors and marinas, public docks and boat ramps, fishing areas off piers and swim areas, maintain a weed-free zone to the lake bottom is required to facilitate other recreational uses of the lake.
- ☐ 3: Control of Noxious and Invasive Species: To control the noxious and invasive aquatic plant species Eurasian watermilfoil and creeping water primrose in order to significantly reduce their populations in the lake. Based on this threshold, whenever these plants are present, CLI will control these species at the stage of growth with the appropriate systemic aquatic herbicide so that the most injury to the plants roots/rhizome will be obtained.
- ☐ All treatment areas will be GPS located and shapefiles of the treatment areas will be provided to the Invasive Species Program Coordinator to be incorporated into the County's annual NPDES Report.

Proposed Method of Control:

☐ **Aquatic Herbicide (Chemical) Control:** The aquatic herbicides to be used for chemical control will be in compliance with the Clear Lake Integrated Aquatic Plant Management Plan, Monitoring and Reporting Program, and Federal and State Regulatory Rules and Regulations, per the herbicide label requirements and the Clear Lake Aquatic Plant Management Permit for the specific site, as well as No Spray Zones. Areas controlled through the use of aquatic herbicides will be monitored for water quality, in compliance with the County NPDES permit, during and one week after application.

☐ **Aquatic Herbicide Application Equipment:** Prior to the start of work, CLI will coordinate with the County Staff to have all vessels assigned to the project undergo quagga mussel prevention screening. CLI will coordinate with staff at least 24 hours prior to a vessel's launch in Clear Lake.

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Application Equipment: CLI will provide application equipment that is properly calibrated to deliver aquatic herbicides at specified label rates to depths ranging from approximately 3 to 20 feet water depth. A description of the application equipment, calibration, and methods to be used is provided below.

Airboats will be used in shallow water areas or in areas where vegetation densities warrant the use of an airboat. CLI's LittLine® systems will be used in open water areas to support an increase in control efficacy.

The LittLine® system was created to operate two separate application systems simultaneously for dual product applications where two herbicides are required. For instance, endothall and triclopyr, and or endothall and 2,4-D cannot be mixed in one tank, thus the two tank, dual rate controlled system allows the application of two separate aquatic herbicides simultaneously at different application rates via the dual processor application controlled computer system. The LittLine® system includes four (4) 100 foot herbicide application hoses on two spools through which herbicides are discharged. The spools are electronically reeled in or out based on the desired depth within the water column.

GPS/GIS Systems: CLI will use GPS/GIS systems to produce and utilize shapefiles to accurately apply and track herbicide placement in the designated treatment areas. CLI will support the development of the treatment area shapefile polygons of the designated treatment areas. A list of GPS and navigation equipment to be used is outlined below and describes how this equipment is integrated into CLI's LittLine® application vessels.

For aquatic herbicide applications, CLI will use the following GPS and navigation equipment which create, and or are easily convertible to ArcGIS/ArcMAP shapefiles:

- ☐ Liquid aquatic herbicides GIS/GPS application technology:
 - o Legacy/MidTech – Mapping, Navigation & Product Application Hardware & Software
 - o GPS integrated into Legacy/MidTech Application Hardware & Software
- ☐ Lowrance HDS-10 Digital Echosounder System with a Structure Scan Module for data collection (backup)
- ☐ Garmin GPS 76Cx – Mapping and Navigation (backup)
- ☐ A Lowrance HDS-10 Digital Echosounder System with a Structure Scan Module will also be used to record data of the EWM profile in the treatment plot. Data will be collected in both the .SLG (traditional sonar on HDS line) and the .SL2 (multi-channel structure scan) formats.

The data collected will be uploaded to the data processing website for at time of treatment processing of SAV data in the treatment plots. Data will be collected to evaluate at time of treatment EWM coverage, height in the water column, and bio-volume to support post-treatment efficacy evaluations as outlined above.

Herbicide, Delivery and Loading Area Coordination: CLI will provide the required aquatic herbicides for the project, as well as coordinate herbicide delivery, and make arrangements for the staging and loading areas for each project.

CLI will purchase the required US-EPA and California Department of Pesticide Regulation registered aquatic herbicides from a manufacturer or distributor in sufficient quantities to implement treatments planned in coordination with County staff.

Herbicides will be unloaded via the use of a closed transfer system when the required product quantities can be delivered in 250 gallon totes and loaded directly into the herbicide application vessels. When smaller quantities are required, qualified application and/or certified herbicide handlers will load herbicides into the application vessel tanks. When possible, CLI will arrange for recyclable totes of herbicide to be delivered. Product will remain on the delivery truck during material transfer and all empty or partially full herbicide totes will be returned to the warehouse at the end of each day. When emptied, totes will be returned and arrangements will be made for recycling. Smaller containers will be triple rinsed per DPR regulations and delivered by CLI to a

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sanitary landfill for final disposal. The site will be kept clean of all debris and kept in an organized manner.

Herbicide use will follow all label requirements to insure protection of environmental as well as State resources. Safety equipment in terms of Personal Protection Equipment (PPE's, clothing, safety glasses, foot wear, gloves,..) and spill containment kits appropriate for liquid herbicides will be provided by CLI at the herbicide staging location and on vessels for handling purposes and immediate response to any spills that may occur. A Site Specific Safety Plan will be developed that will describe the potential hazards associated with the general operation, herbicide loading, rinsing and application, with measures described to minimize or eliminate hazards, emergency contact and location descriptions, and actions and personnel responsibilities to respond to incidents.

Quality Assurance and Environmental Protection Measures: For Quality Assurance purposes, CLI will allow County staff access to provide oversight throughout the herbicide loading and application process.

CLI's Aquatic Pesticide Application Plan (APAP) will incorporate a Site Specific Safety (SSSP) Plan that identifies and assigns roles for the project manager(s), site safety officer, and emergency response coordinator. The SSSP reviews potential hazards associated with working around equipment. CLI will conduct a Project Orientation Meeting to review the Site Specific Safety Plan with all CLI, County and other staff assigned to, or who will be involved with the project. All applicable State and Federal rules and regulations that govern the use of aquatic herbicides and aquatic herbicide label instructions will be complied with to ensure the protection of the environment. Additional information related to spill prevention procedures will be outlined in CLI's Site Specific Safety Plan for the project, and will be reviewed during the Project Orientation Meeting.

CLI's Aquatic Pesticide Application Plan (APAP) document also serves as a quality control and quality assurance tool to ensure that efforts are carried out correctly, efficiently and safely.

Performance Requirements and Special Conditions

☐ **Safety:** CLI will provide its employees with protective equipment (i.e. respirators, eye protection, etc.) for the safe application of herbicides or chemicals being applied in accordance with the herbicide label requirements, and as outlined in CLI's Site Specific Safety Plan for the project.

☐ CLI will have various spill clean-up kits onsite at all times with sufficient capability to immediately clean up any spill that occurs either on land or in the water, and will report any spills as soon as feasible to the County Representative.

☐ CLI will maintain its equipment so that no leakage or spillage of fluids occurs, and shall remove any equipment violating this requirement.

Project Specific

☐ CLI will comply with all federal, state and local laws, regulations and reporting requirements and obtain and pay for all necessary licenses and permits related to the Work.

☐ CLI will provide and operate facilities appropriate for storage, handling, cleaning and disposing of herbicide containers, loading, mixing and preparation of materials for use in treatment vehicles and portable units.

CLI's strategy to be able to accomplish treatments in all of the 36 Zones is to have up to three boats on site during the application period, and treat all of the areas that meet the treatment threshold consecutively, following the protocol CLI implemented in 2016. CLI will perform pre and post treatment submerged aquatic vegetation mapping in the control areas, so that treatments can be timed to meet the program objectives. CLI would use one of our larger vessels as a supply vessel if required, so that the application vessels can reload on the lake without having to return to shore as

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often for reloading. This would speed up the process and allow for treating of all of the areas requiring treatment in a timely fashion. CLI has the ability to perform the needed treatments in all 36 zones, as CLI frequently performs treatments for up to 1,000 acres per day. CLI can accomplish this by using a variety of application vessels that will include airboats, supply boats, and large capacity (200 gallon per load) application vessels. Shallow shoreline areas and inshore boat lanes will be treated by airboats, deeper water sites including open water boat lanes will be treated via subsurface herbicide injection, which through research and published reports has proven to increase control efficacy. CLI has five (5) application vessels and the staff to operate them that will allow CLI to respond immediately to any treatment and re-treatment requirements.

The following data tables outline the planned treatment areas (locations). In areas that contain Eurasian watermilfoil, and per research and operational projects and published reports documenting the results, CLI will utilize the following options for the control of Eurasian watermilfoil (*Myriophyllum spicatum*) in the areas where the plant exists as follows:

- ☐ Areas that contain Eurasian watermilfoil alone where water exchange rates are low:
 - o liquid 2,4-D alone
- ☐ Areas that contain Eurasian watermilfoil alone where water exchange rates are high:
 - o blend of liquid 2,4-D and Endothall
- ☐ Areas that contain Eurasian watermilfoil and other submerged species will be treated with a blend of liquid 2,4-D and Endothall, or Endothall alone, or other registered and approved aquatic herbicide based on species present.
- ☐ Areas that contain creeping water primrose will be treated with a systemic aquatic herbicide containing triclopyr.

Treatment Timing: The start date for this project will be governed by:

- ☐ Water Temperature and plant growth as interpreted by the Lake County Water Resources Department, and
- ☐ The fish breeding cycle by the California Department of Fish and Wildlife (CDFW).
- ☐ The treatment dates will be mutually agreed upon, and they typically begin around the end of May each year.
- ☐ The end date for this project each year is determined by the length of the recreational season, and could be extended into October.

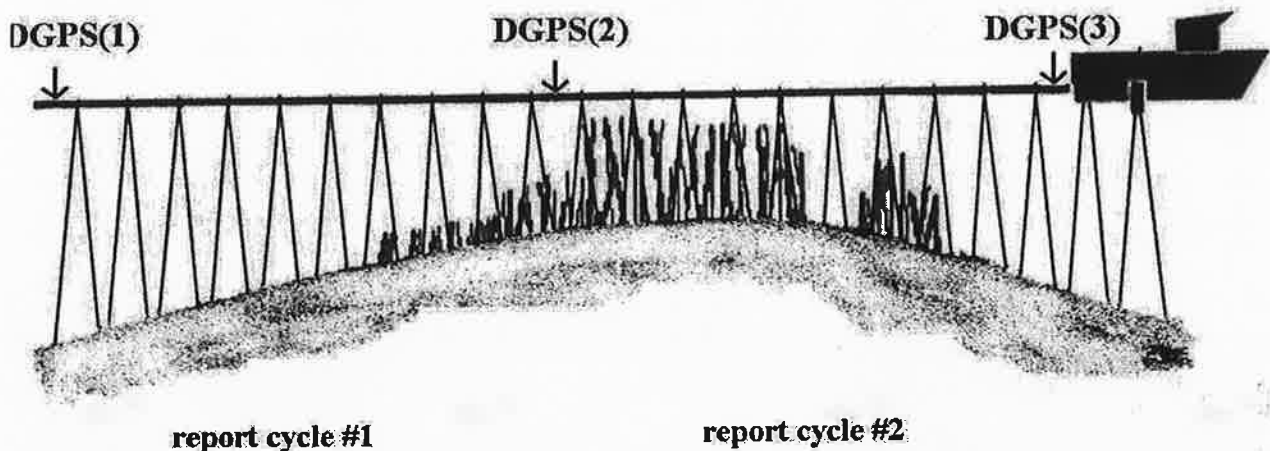
☐ **Follow-up Treatments:** CLI will perform follow-up monitoring and retreatments will be conducted to maintain the threshold discussed above over the lake use season. Follow-up treatments will be carried out as if the site were new in terms of visual monitoring, physical/chemical sampling, and data recording, following NPDES Permit and Clear Lake Integrated Aquatic Plant Management Program requirements.

Inspections and Monitoring: To document the exact vegetation control requirements of the specified areas in the lake system, CLI would perform an inspection and survey of the specified areas to ensure that the County has an accurate assessment of the conditions in each area, as well as to ensure compliance with all applicable NPDES Permit requirements that pertain to the planned control approach. The inspections would include the following:

☐ **Monitoring and Physical/Chemical Sampling:** NPDES Permit requirements (Monitoring and Reporting Program) call for a map showing each treatment area, immediately adjacent untreated areas, and water bodies receiving treated water. Information on surface area and volume of the application area and any other information used to calculate herbicide dosage and quantities of products used. To comply with this requirement, a survey of each of the planned aquatic vegetation control areas would be performed via boat, and an accurate assessment of the aquatic vegetation growth and related conditions would be recorded and mapped. During the inspection, the following items would be performed and recorded:

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○ **Pre-Treatment (before)-Aquatic Plant Monitoring:** Visual monitoring will be performed by CLI's experienced personnel that understand plant growth cycles and can identify the top 10 submerged aquatic plants in Clear Lake. Visual assessment in conjunction with physical grab samples of the aquatic vegetation growth within the specified areas of the lake system will be made and recorded prior to treatment at each site to determine species presence and density. This visual monitoring will be recorded on a Species Presence and Density Form that is provided by the County. In addition to the visual and manual monitoring, CLI will utilize Submerged Aquatic Vegetation (SAV) mapping technology (BioBase System) to record SAV characteristics in the treatment areas. This will be performed using a Lowrance HDS-10 Digital Echo sounder System with a Structure Scan Module to record data of the aquatic weed profile in the control plots Pre and Post treatment. This will allow for precise information related to plant growth conditions at the time of treatment, as well as post treatment to document control efficacy. The sites will be surveyed with this technology through the growing season, which will allow for a quick response if plant growth conditions develop where any re-treatments are required. Data will be collected in both the .SLG (traditional sonar on HDS line) and the .SL2 (multi-channel structure scan) formats as outlined below:



The data collected will be processed for at time of treatment SAV data in the treatment plots. Data will be collected to evaluate at time of treatment aquatic weed coverage, height in the water column, and bio-volume to support Post-Treatment efficacy evaluations. An example of a SAV at time of treatment and Post treatment overview map along the Clear Lake shoreline from 2016 is outlined below:

Final control options to deal with aquatic vegetation growth present within the areas will be determined based on the survey results and final schedules for aquatic vegetation control (aquatic herbicide applications) will be provided to the County with recommended actions to be taken.

○ The SAV mapping process that is done during and after application supports the development of exact herbicide use requirements based on species present, and the exact site data and water volume of the areas to be controlled. The SAV mapping technology documents treatment efficacy, and supports compliance with the NPDES Permit requirements through the use of Best Available Technologies (BAT's). All of the 2017 control areas in Clear Lake would be documented using this technology so that a dataset can be developed to provide data for the designated control areas (CLI performed pre and post treatment SAV monitoring in 2016, and a data set was developed to document control efficacy in 2016).

○ Following the visual monitoring activities for each of the sites, the data will be recorded on a Species Presence and Density Form.

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NPDES Permit Requirements: To comply with the NPDES Permit for the Discharge of Aquatic Pesticides to Waters of the United States under the California Regional Water Quality Control Board (RWQCB) regulations, and the Clear Lake Integrated Aquatic Plant Management Program Ordinance, CLI will collect and record temperature, DO, and turbidity (secchi depth) at the time of treatment; and temperature and DO data will be collected and recorded one week after treatment. CLI will fulfill this requirement by submitting a Supplemental Pesticide Usage Report (SPUR) at the end of each month's treatments. CLI will submit all data collected to the Invasive Species Program Coordinator.

- **During Treatment:** To comply with the CLIAPMP, CLI will record temperature, dissolved oxygen (DO), and Secchi depth at every treatment site. CLI will also submit a Supplemental Pesticide Usage Report (SPUR) to the Invasive Species Program Coordinator at the end of each month's treatments.

- **After (Post) Treatment:** CLI will record the temperature and DO approximately one week after treatment on the SPUR for every treatment.

- **NPDES Monitoring:** To comply with the County NPDES permit, CLI can provide water quality sampling and monitoring services for this project that would include the following:

- ☐ **Sampling:** CLI will pick up the water sample bottles at the Water Resources Department for that day's treatments, take the water samples to a depth of 1 foot, label the bottles, keep the samples in a cooler with ice, and deliver the samples to the Water Resources Department at the end of the treatment day. Two samples would be taken per site: one pretreatment and one during treatment.

- ☐ **Data Monitoring:** CLI will record the following water quality parameters at the time of sampling: Presence of floating and suspended matter, discoloration, visible film, nuisance conditions, weather, Secchi depth in ft., temp, turbidity, conductivity, DO, and if using copper, hardness.

- ☐ **Post Treatment Sampling-One Week-7 Day):** CLI will pick up the water sample bottles at the Water Resources Department for the Post Treatment sampling. Samples will be collected at a depth of 1 foot, the bottles will be labeled, kept in a cooler with ice, and deliver to the Water Resources Department at the end of the treatment day. One sample would be taken per site.

Efficacy Monitoring: Post treatment efficacy monitoring will be performed as outlined above. CLI will utilize Submerged Aquatic Vegetation (SAV) mapping technology (BioBase System) to record SAV characteristics in the treatment areas. This will be performed using a Lowrance HDS-10 Digital Echo sounder System with a Structure Scan Module to record data of the aquatic weed profile in the control plots Pre and Post treatment. This will allow for precise information related to plant growth conditions at the time of treatment, as well as post treatment to document control efficacy.

- ☐ All monitoring, including efficacy monitoring data will be provided to the Invasive Species Program Coordinator.

License, Certification, Permitting-Recommendations/Applications: Following a review of each of the sites as outlined above, a written recommendation will be provided by a Pest Control Advisor (PCA-McNabb or Moorhouse) for each site, and provided to the Invasive Species Coordinator, with a copy on board the treatment vessel at the time of treatment. All treatments will be performed by CLI staff in possession of current Qualified Applicators Licenses (QAL) and Certificates (QAC) in the Aquatics (F) category, issued by the California Department of Pesticide Regulation. CLI is currently registered with the Lake County Agricultural Commissioner's office, and will apply for and receive all County permit approvals and conditions required prior to mechanical removal or chemical applications.

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☐ For each treatment site, CLI will apply for the Clear Lake Aquatic Plant Management Permit prior to treatment. The permit will be carried onboard at the time of treatment, and the permit conditions will be followed.

Quagga/Zebra Mussel Prevention Compliance: All of CLI's vessels to be used in Clear Lake will undergo quagga/zebra mussel prevention screening. CLI will coordinate this screening with County staff at least 24 hours prior to the vessel's first launch for the year in Clear Lake. When vessels have been screened and determined to be clean, they will receive Lake County QZ mussel stickers to be applied to vessels and trailer. If CLI's vessels leave and return to the County before the monthly sticker has expired they will be rescreened. CLI understands that if our vessels are found to pose a threat for Quagga mussel introduction, they will require decontamination prior to launching in Clear Lake.

2. REPORTING REQUIREMENTS.

Annual Report: CLI will provide the county with an annual report prior to February 1st of the year following treatment. The report will include all monitoring data and observations pertaining to the treatments that were conducted in 2017, including recommendations for increasing efficacy for future years.

3. RECORDS RETENTION. Contractor shall prepare, maintain and/or make available to County upon request, all records and documentation pertaining to this Agreement, including financial, statistical, property, recipient and service records and supporting documentation for a period of five (5) years from the date of final payment of this Agreement. If at the end of the retention period, there is ongoing litigation or an outstanding audit involving the records, Contractor shall retain the records until resolution of litigation or audit. After the retention period has expired, Contractor assures that confidential records shall be shredded and disposed of appropriately.

4. COUNTY RESPONSIBILITIES. County shall assist CLI with the County NPDES permit monitoring by supplying water sample bottles at the Water Resources Department for that day's treatments and for the one week post treatment sample.

EXHIBIT "C" – FISCAL PROVISIONS

1. **CONTRACTOR'S FINANCIAL RECORDS.** Contractor shall keep financial records for funds received hereunder, separate from any other funds administered by Contractor, and maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's Cost Principles.

2. **INVOICES.**

2.1 Contractor's invoices shall be submitted in arrears on a monthly basis, or such other time that is mutually agreed upon in writing, and shall be itemized and formatted to the satisfaction of the County.

2.2 County shall make payment within 20 business days of an undisputed invoice for the compensation stipulated herein for services rendered and accepted, less potential deductions, if any, as herein provided. Payment on partial deliverables may be made whenever amounts due so warrant or when requested by the Contractor and approved by the Assistant Purchasing Agent.

3. **AUDIT REQUIREMENTS AND AUDIT EXCEPTIONS**

3.1 Contractor warrants that it shall comply with all audit requirements established by County and will provide a copy of Contractor's Annual Independent Audit Report, if applicable.

3.2 County may conduct periodic audits of Contractor's financial records, notifying Contractor no less than 48 hours prior to scheduled audit. Said notice shall include a detailed listing of the records required for review. Contractor shall allow County, or other appropriate entities designated by County, access to all financial records pertinent to this Agreement.

3.3 Contractor shall reimburse County for audit exceptions within 30 days of written demand or shall make other repayment arrangements subject to the approval of County.

4. **BUDGET.** The Contractor shall submit, in advance, a detailed budget, in the format provided by County for review and approval by the County. Contractor shall be compensated only for expenses included in the approved budget. Modification to the budget must be approved in advance by the County.

5. **EXPENDITURE OF FUNDS.**

5.1 Funds payable through this agreement shall not be used to purchase food or promotional merchandise or to attend conferences unless specifically approved in the budget.

5.2 County reserves the right to refuse payment to Contractor or disallow costs for any expenditure determined to be unreasonable, out of compliance, or inappropriate to the services provided hereunder.

EXHIBIT "D" – COMPLIANCE PROVISIONS

1. **INFORMATION INTEGRITY AND SECURITY.** Contractor shall immediately notify County of any known or suspected breach of personal, sensitive and confidential information related to Contractor's work under this Agreement.

2. **NON-DISCRIMINATION.** Contractor shall not unlawfully discriminate against any qualified worker or recipient of services because of race, religious creed, color, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age.

3. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

3.1 The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:

A. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not, within a three-year period preceding this Agreement, 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 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;

C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in the preceding paragraph; and

D. Have not, within a three-year period preceding this Agreement, had one or more public transactions terminated for cause or default.

3.2 Contractor shall report immediately to County, in writing, any incidents of alleged fraud and/or abuse by either Contractor or Contractor's subcontractor. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by County.

4. **AGREEMENTS IN EXCESS OF \$100,000.** Contractor shall comply with all applicable orders or requirements issued under the following laws:

4.1 Clean Air Act, as amended (42 USC 1857).

4.2 Clean Water Act, as amended (33 USC 1368).

4.3 Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.)

4.4 Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).

5. **INDEMNIFICATION AND HOLD HARMLESS.** Each party shall indemnify and hold the other harmless against all actions, claims, demands, and liabilities and against all losses, damage, cost, expenses, and attorney's fees, arising directly or indirectly out of an actual or alleged injury to a person or property in the same proportion that its own acts and/or omissions are attributed to said claim, demand, liability, loss, damage, cost, expenses, and/or attorney's fees. This provision shall not extend to any claim, demand, liability, loss, damage, cost, expenses, and/or attorney's fees covered by the insurance of either party.

Contractor's obligations under this Section shall survive the termination of the Agreement.

6. **STANDARD OF CARE.** Contractor represents that it is specially trained, licensed, experienced and competent to perform all the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed, whether by Contractor or designated subcontractors, in a manner according to generally accepted practices.

7. **INTEREST OF CONTRACTOR.** Contractor assures that neither it nor its employees has any interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder.

8. **DUE PERFORMANCE – DEFAULT.** Each party agrees to fully perform all aspects of this agreement. If a default to this agreement occurs then the party in default shall be given written notice of said default by the other party. If the party in default does not fully correct (cure) the default within 30 days of the date of that notice (i.e. the time to cure) then such party shall be in default. The time period for corrective action of the party in default may be extended in writing executed by both parties, which must include the reason(s) for the extension and the date the extension expires.

Notice given under this provision shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable time period. No such notice shall be deemed a termination of this Agreement, unless the party giving notice so elects in that notice, or so elects in a subsequent written notice after the time to cure has expired.

9. **INSURANCE.**

9.1 Contractor shall procure and maintain Workers' Compensation Insurance for all of its employees.

9.2 Contractor shall procure and maintain Comprehensive Public Liability Insurance, both bodily injury and property damage, in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence, including but not limited to endorsements for the following coverage: personal injury, premises-operations, products and completed operations, blanket contractual, and independent contractor's liability.

9.3 Contractor shall procure and maintain Comprehensive Automobile Liability Insurance, both bodily injury and property damage, on owned, hired, leased and non-owned vehicles used in

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connection with Contractor's business in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence.

9.4 Contractor shall procure and maintain Professional Liability Insurance for the protection against claims arising out of the performance of services under this Agreement caused by errors, omissions or other acts for which Contractor is liable. Said insurance shall be written with limits of not less than one million dollars (\$1,000,000).

9.5 Contractor shall not commence work under this Agreement until it has obtained all the insurance required hereinabove and submitted to County certificates of insurance naming the County of Lake as additional insured. Contractor agrees to provide to County, at least 30 days prior to expiration date, a new certificate of insurance.

9.6 In case of any subcontract, Contractor shall require each subcontractor to provide all of the same coverage as detailed hereinabove. Subcontractors shall provide certificates of insurance naming the County of Lake as additional insured and shall submit new certificates of insurance at least 30 days prior to expiration date. Contractor shall not allow any subcontractor to commence work until the required insurances have been obtained.

9.7 For any claims related to the work performed under this Agreement, the Contractor's insurance coverage shall be primary insurance as to the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, agents or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

9.8 The Commercial General Liability and Automobile Liability Insurance must each contain, or be endorsed to contain, the following provision:

The County, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds and shall be added in the form of an endorsement to Contractor's insurance on Form CG 20 10 11 85. Contractor shall not commence work under this Agreement until Contractor has had delivered to County the Additional Insured Endorsements required herein.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of California Civil Code Section 2782.

9.9 Insurance coverage required of Contractor under this Agreement shall be placed with insurers with a current A.M. Best rating of no less than A: VII.

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage, nor shall it preclude County from taking other action as is available to it under any other provision of this Agreement or applicable law. Failure of County to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at a later date.

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9.10 Any failure of Contractor to maintain the insurance required by this section, or to comply with any of the requirements of this section, shall constitute a material breach of the entire Agreement.

10. **ATTORNEY'S FEES AND COSTS.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

11. **ASSIGNMENT.** Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of County except that claims for money due or to become due Contractor from County under this Agreement may be assigned by Contractor to a bank, trust company, or other financial institution without such approval. Written notice of any such transfer shall be furnished promptly to County. Any attempt at assignment of rights under this Agreement except for those specifically consented to by both parties or as stated above shall be void.

12. **PAYROLL TAXES AND DEDUCTIONS.** Contractor shall promptly forward payroll taxes, insurances, and contributions to designated governmental agencies.

13. **INDEPENDENT CONTRACTOR.** It is specifically understood and agreed that, in the making and performance of this Agreement, Contractor is an independent contractor and is not an employee, agent or servant of County. Contractor is not entitled to any employee benefits. County agrees that Contractor shall have the right to control the manner and means of accomplishing the result contracted for herein.

Contractor is solely responsible for the payment of all federal, state and local taxes, charges, fees, or contributions required with respect to Contractor and Contractor's officers, employees, and agents who are engaged in the performance of this Agreement (including without limitation, unemployment insurance, social security and payroll tax withholding.)

14. **OWNERSHIP OF DOCUMENTS.** All non-proprietary reports, drawings, renderings, or other documents or materials prepared by Contractor hereunder are the property of County.

15. **SEVERABILITY.** If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

16. **ADHERENCE TO APPLICABLE DISABILITY LAW.** Contractor shall be responsible for knowing and adhering to the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, (42 U.S.C. Sections 12101, et seq.). California Government Code Sections 12920 et seq., and all related state and local laws.

17. **HIPAA COMPLIANCE.** Contractor will adhere to Titles 9 and 22 and all other applicable Federal and State statutes and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and will make his best efforts to preserve data integrity and the confidentiality of protected health information.

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18. SAFETY RESPONSIBILITIES. Contractor will adhere to all applicable CalOSHA requirements in performing work pursuant to this Agreement. Contractor agrees that in the performance of work under this Agreement, Contractor will provide for the safety needs of its employees and will be responsible for maintaining the standards necessary to minimize health and safety hazards.

19. JURISDICTION AND VENUE. This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue of any action or proceeding regarding this Agreement or performance thereof shall be in Lake County, California. Contractor waives any right of removal it might have under California Code of Civil Procedure Section 394.

20. RESIDENCY. All independent contractors providing services to County for compensation must file a State of California Form 590, certifying California residency or, in the case of a corporation, certifying that they have a permanent place of business in California.

21. NO THIRD-PARTY BENEFICIARIES. Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create, any rights in or for the benefit of third parties.