



COUNTY OF DEL NORTE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

880 Northcrest Drive
Crescent City, California 95531

Phone
(707) 464-0861

Heather Snow, Director

Fax
(707) 465-6701

June 18, 2020

TO: Interested Parties
FROM: Del Norte County, Department of Health & Human Services
RE: Request for Proposals, Deputy Public Health Officer

NOTICE AND INVITATION TO SUBMIT PROPOSALS

The County of Del Norte Department of Health and Human Services is requesting proposals for the position of Deputy Public Health Officer.

Copies of the Request for Proposals may be obtained from the Del Norte County Department of Health and Human Services office located at 880 Northcrest Drive, Crescent City, CA 95531, or from the County's website at co.del-norte.ca.us under Bid Opportunities.

The proposal process opens on June 18, 2020 and closes on July 3, 2020 at 5:00pm.

For additional information, contact Heather Snow at 707-464-3191 ext. 2550, or hsnow@dnco.org.

Thank you,

A handwritten signature in black ink, appearing to read "Heather Snow", with a wavy line extending to the right.

Heather Snow, LCSW
Director
Department of Health and Human Services

Del Norte County Department of Health and Human Services
Public Health Branch
880 Northcrest Drive
Crescent City CA 95531

REQUEST FOR PROPOSALS

PROFESSIONAL SERVICES FOR DEL NORTE COUNTY
DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR A
Deputy Public Health Officer



Notice is Given - The Del Norte County Department of Health and Human Services will receive Proposals for the Deputy Public Health Officer position for July 15, 2020- December 31, 2020

Date of RFP Issue – June 18, 2020

Proposals Submission Deadline – July 3, 2020 5:00 pm
Submit Two (2) hard copies of complete proposal to:

Heather Snow, Director
Del Norte County Department of Health and Human Services
880 Northcrest Drive
Crescent City CA 95531

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Attachment A: Sample Professional Services Agreement

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Statement of Work Deputy Public Health Officer

1. SUMMARY

The Del Norte County Department of Health and Human Services, Public Health Branch is seeking proposals from qualified individuals for a Deputy Public Health Officer, beginning approximately July 1, 2020. This is a Request for Proposals, not an Invitation for Bid. Responses will be evaluated on the basis of the relative merits of the proposal, in addition to price; there will be no public opening and reading of responses received pursuant to this Request, other than to name those offerors who have submitted proposals.

2. CONTRACT AWARD SCHEDULE

Post RFP	June 18, 2020
Deadline for Questions	July 2, 2020 at 5:00 p.m.
Proposal Submission Deadline	July 3, 2020 at 5:00 p.m.
Contract Approval (tentative)	July 10, 2020
Services to Begin (tentative)	July 15, 2020

3. GENERAL CONDITIONS

Prime Responsibility: The selected Contractor(s) will be required to assume full responsibility for all services and activities offered in its/their proposal(s), whether or not provided directly. Further, the County will consider the selected Contractor(s) to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

Assurance: Any contract awarded under this RFP must be carried out in full compliance with Title VI and VII of the Civil Rights Act of 1964 as amended, and Section 504 of the Rehabilitation Act of 1973 as amended. The Provider must guarantee that services provided will be performed in compliance with all applicable county, state and federal laws and regulations pertinent to this project. Prior to executing an agreement the Provider will be required to provide evidence substantiating the necessary skill to perform the duties through the submission of references.

The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-199 (HIPAA): Any contract awarded under this RFP must comply with the requirement of 42 U.S.C. §§ 1171 et seq., Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its subsequent amendments, related to Protected Health Information (PHI), in performing any task or activity related to this Agreement.

Independent Contractor: In performance of the work, duties and obligations assumed by the offeror, it is mutually understood and agreed that the offeror, including any and all of the offeror's officers, agents and employees, will at all times be acting and

performing in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner or associate of the County.

Vendors may submit alternate proposals. Alternate proposals shall be clearly marked as such.

Del Norte County prohibits discrimination in employment or in the provision of services because of race, color, religion, religious creed, sex, age, marital status, ancestry, national origin, political affiliation, physical disability or medical condition. This clause does not require the hiring of unqualified persons.

The County reserves the right to reject any and all proposals, to negotiate specific terms, conditions, compensation, and provisions on any contracts that may arise from this solicitation; to waive any informalities or irregularities in the proposals; and to accept the proposal(s) that appear(s) to be in the best interest of the County of Del Norte. In determining and evaluating the proposals, costs will not necessarily be controlling; the experience of those who will be providing services under the contract, quality, equality, efficiency, utility, suitability of the services offered, and the reputation of applicants will be considered, along with other relevant factors.

Del Norte County reserves the right to:

- Request clarification of any submitted information;
- Not enter into any agreement;
- Not to select any applicant;
- Amend or cancel this process at any time;
- Interview applicants prior to award and request additional information during the interview;
- Negotiate a multi-year contract or a contract with an option to extend during the duration;
- Award more than one contract if it is in the best interest of the County; and/or
- Issue a similar RFP in the future.

Qualified offerors must be prepared to enter into the County's standard Contract, a sample of which is attached as Attachment A to this RFP. Please review the details of Attachment A carefully. By reference, it incorporates many standards, terms and conditions required as part of this RFP. The terms of this contract may be subject to negotiation. The County intends to award contracts substantially in the form of the sample agreement to the selected offeror(s). Portions of this RFP and the offeror's proposal may be made part of any resultant Contract and incorporated in the Contract.

1. Prior to commencement of services, the Contractor must provide evidence of the following insurance coverages: Worker's Compensation, Commercial General Liability (naming the County of Del Norte as additional insured), Comprehensive Business or Commercial Automobile Liability for Owned Automobiles and Non-owned /Hired Automobiles, and will be required to provide Errors and Omissions insurance, Professional Liability or Malpractice Insurance depending on the nature and risks associated with the services

provided. The Contractor will be required to maintain the required coverages, at its sole cost and expense, throughout the entire term and any subsequent renewal terms of the contract.

SCOPE OF WORK – PROJECT DESCRIPTION

SCOPE OF SERVICES AND DUTIES.

The Del Norte County Department of Health and Human Services (DHHS) requests proposals from qualified consulting contractors to provide expertise and response to public health emergencies, natural and man-made disasters as a Deputy Public Health Officer.

Public Health Officers apply knowledge of general preventive medicine and public health issues to promote health care to groups or individuals, and aid in the prevention or reduction of risk of disease, injury, disability, or death. Confidentiality of Medical Information is governed by the California Code of regulations (CCR) and the Health Insurance Portability Act of 1996 (HIPAA).

The position and powers of the Health Officer derive from statute. The Health Officer is required to observe and enforce:

- Local orders and ordinances pertaining to the public health
- Orders prescribed by the California Department of Public Health (CDPH)
- Statutes relating to Public Health

The Deputy Public Health Officer must be familiar with the authorizing statutes and be able to fill in and perform the duties of the Health Officer on a temporary basis, as needed.

The Deputy may perform the following services:

- Fill in and assume the duties of the Public Health Officer as needed on a temporary basis.
- Coordinate or integrate the resources of health care institutions, social service agencies, public safety workers, or other organizations to improve the community health.
- Deliver presentations to lay or professional audiences.
- Design or use surveillance tools, such as screening, lab reports, and vital records, to identify health risks.
- Develop or implement interventions to address behavioral causes of diseases.
- Direct or manage prevention programs in specialty areas such as occupational, infectious disease, and environmental medicine.
- Evaluate the effectiveness of prescribed risk reduction measures or other interventions.
- Identify groups at risk for specific preventable diseases or injuries.
- Perform epidemiological investigations of acute and chronic diseases.

- Prepare preventive health reports including problem descriptions, analyses, alternative solutions, and recommendations
- Assist departmental administration in public health program that may include disease control, environmental health services, health education, maternal and child health, nursing, nutrition, occupational health, and primary health care.
- Interface with the professional medical community to assure knowledge of ongoing and emerging public health threats, current and new developments in standards of care, mandatory reporting requirements and appropriate interventions to reduce the transmission of communicable diseases.
- Review and approve reports, health alerts and related correspondence for distribution to other public agencies and the public.
- Assist with community outreach and education on critical health issues.
- Work with governmental, public, and private agencies in programs concerning public health.
- Act as a consultant to professional staff members and members of the medical profession on problems concerning public health.
- Participate in and provides input on matters related to the functions and activities of the public health program.
- Participate in the formation and continuation of vaccination healthcare teams working collaboratively with local hospitals.
- May provide consultation on medical matters pertaining to prospective and/or current employees.
- May speak before professional and community groups relative to public health education and/or health hazards.
- Provide professional supervision to public health nurses and staff.

WORK SCHEDULE.

The Deputy Public Health Officer will act as backup and assistant to the Public Health Officer (PHO). The work schedule would include approximately 10-15 hours weekly to respond to and monitor infectious disease outbreaks, natural and man-made disasters and provide community health education outreach. The hours worked would also include 24 hour coverage by phone to relieve the Public Health Officer during Public Health Emergencies and in-person response when necessary. During extreme conditions, the Deputy Public Health Officer will work as part of the Public Health team along with the PHO, needs to be discussed as they arise.

5. PROPOSAL CONTENT AND FORMAT REQUIREMENTS

Interested offerors shall submit two (2) unbound, signed original proposals as directed on page 1 before the date and time listed in the CONTRACT AWARD SCHEDULE section of this RFP. Proposals shall be delivered no later than the date and time listed in the CONTRACT AWARD SCHEDULE and shall contain at a minimum the following items:

- Cover Sheet (Attachment B)
 - Provide the full legal name of the Contractor who will execute the contract. Provide specific information concerning the agency, including: the agency's legal name, type of entity, and Federal Tax ID #.
 - The cover sheet must be signed by an owner, corporate officer, or agent authorized by the Contractor.

- Description of Services, Background and Staff – 60 points

- Services
 - Itemize the complete list of services to be provided.
 - Note instances where services exceed the scope or detail offered in this proposal.
 - Note instances where services do not meet the scope offered in this proposal.
 - Describe how continual staff development and training is provided.
 - Address instances where possible cost efficiencies may be gained, quality may be improved or County may otherwise benefit from adopting your proposal over the generally listed terms of this RFP.

- Background and Experience
 - Provide evidence of graduation from a medical college of good standing and repute and a license to practice medicine in the State of California.
 - Provide an overview of the types of your work and experience. Include a high level account of your qualifications as they relate to this proposal.
 - Provide examples and references that substantiate your experience in providing the types of service requested in this proposal. Provide at least three (3) references for which you have provided the services requested in this RFP. Include the name, email, and telephone number of contact persons.
 - Please describe any current, pending or past litigation (within the last 10 years) that the potential contractor has been, is, or is expected to be a party to.

- Cost Proposal:-40 points
 - Provide a proposal for fees charged for the services requested in the RFP . The Vendor will be responsible for all costs associated with postage, invoices and other related forms and/or correspondence.
 - Fee structure may include breakdown by task completion or by deliverables. Please explain the basis and rationale of the fee structure.

Respondents must submit two (2) originals signed by the individual or authorized representative. All Proposals shall be submitted on letter-sized media, pages numbered numerically, preferably on recycled paper. The outside of the submission envelope must be sealed and clearly marked "REQUEST FOR PROPOSALS –

Consultation Services for Deputy Public Health Officer for the Department of Health and Human Services, Public Health Branch

Proposals must be submitted to Del Norte County Department of Health and Human Services, Attn: Heather Snow, 880 Northcrest Drive, Crescent City, California, 95531, and received no later than July 3, 2020 by 5:00 p.m.

6. SELECTION PROCEDURES

Proposals will be evaluated on the criteria outlined in the PROPOSAL CONTENT AND FORMAT REQUIREMENTS section, with a maximum possible score of 100 points.

After an initial review and evaluation of each of the proposals, the offerors submitting the most highly rated proposals may be invited for interviews prior to final selection, to further elaborate on their proposals. The County reserves the right to award a contract without holding interviews, in the event the written proposals provide a clear preference on the basis of the criteria described.

The Contractor(s) selected for this project will be required to accept the County's standard contract and to comply with insurance standards as deemed acceptable to the County's Risk Manager. No agreement with the County of Del Norte is in effect until both parties have signed a contract.

Proposals will be evaluated using the following criteria:

1. Contractor's overall response to the RFP.
2. Ability to complete the requested service at a high level of quality including resources and staff qualifications and in a timely manner.
3. Experience with projects of equal size and scope and of equal or greater complexity.

7. INQUIRIES

Direct all inquiries regarding the proposal process or proposal submissions to:

Heather Snow, Director
Del Norte County Department of Health and Human Services
880 Northcrest Drive
Crescent City, CA 95531
(707) 464-3191, Ext. 2550
hsnow@dnco.org

8. NOTICE

The County reserves the right to request any Consultant submitting a Proposal to clarify the submittal or to supply additional information necessary to assist in the selection process.

The County reserves the right to reject any and/or all submittals at its discretion for any reason.

Respondents are requested to direct questions to Heather Snow at 707-464-3191, Ext. 2550, hsnow@dnco.org; or Melody Cannon-Cutts at 707-464-3191, mcannon@co.del-norte.ca.us.

July 1, 2020 through December 31, 2020

Del Norte County Contract No.: _____

Deputy Public Health Officer Contract – Professional Services

Contractor:

Address:

DEPUTY PUBLIC HEALTH OFFICER CONTRACT – PROFESSIONAL SERVICES

This agreement is entered into between the County of Del Norte, a political subdivision of the State of California, through its Health and Human Services Agency ("COUNTY") and _____ ("CONTRACTOR") for the provision of professional services.

IDENTIFICATION OF CONTRACTOR. The name and address of CONTRACTOR are: _____ CONTRACTOR is an individual. CONTRACTOR'S federal identification number is _____.

1. SCOPE OF SERVICES:

CONTRACTOR shall provide those services described in Attachment "A". CONTRACTOR shall provide said services at the time place and in the manner specified in Attachment "A".

2. TERM:

Commencement Date: July 1, 2020

Ending Date: December 31, 2020

3. PAYMENT:

COUNTY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to CONTRACTOR for services rendered pursuant to this Agreement. CONTRACTOR shall submit all billings for said services to COUNTY in the manner specified in Attachment "B".

4. INCORPORATION.

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

- Attachment A – Scope of Work – Professional Services
- Attachment B – Payment
- Attachment C – Sample Invoice
- Attachment D – General Provisions

5. GENERAL PROVISIONS.

The general provisions set forth in Attachment "C" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other term or condition insofar as it is inconsistent with the general provisions.

6. ADMINISTRATION:

6.1 CONTRACTOR'S principal place of business and address for service of process.
CONTRACTOR'S principal place of business is _____

6.2 Designated Representatives:

Heather Snow, Director of the Department of Health and Human Services, is the representative of the COUNTY and will administer this Agreement for the COUNTY. _____ is the representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party. CONTRACTOR may appoint a new representative with approval by COUNTY.

7. NOTICES:

Any notice or instrument required to be given or delivered by law or this contract shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

COUNTY: Heather Snow, Director
Department of Health and Human Services
880 Northcrest Drive
Crescent City, CA 95531

CONTRACTOR:

Either party may change the address or identity of the person for notices under this paragraph by written notice to the other delivered in accordance with this paragraph.

Routine Administrative Communications.

Routine administrative communications required to be in writing may be by personal delivery, mail, facsimile transmission or electronic mail as agreed between the CONTRACTOR and COUNTY.

8. INSURANCE.

During the term of this Agreement, CONTRACTOR shall maintain in full force and effect the following types of insurance in the amounts specified:

Certificates of such insurance in a form approved by the Risk Manager of COUNTY shall be filed with the County Risk Manager before payment will be made. The insurance shall name COUNTY as an additional insured on a primary basis for General Liability Insurance and shall state that the policy will not be canceled or limits or scope reduced by the insurer except after filing written notice thereof with the COUNTY 30 days in advance. No work shall be authorized until such insurance certificate is filed.

8.1 GENERAL LIABILITY. During the term of this Agreement, CONTRACTOR shall maintain in full force and effect a policy of general liability insurance with minimum coverage of one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage.

8.2 WORKERS' COMPENSATION. During the term of this Agreement, CONTRACTOR shall fully comply with the terms of the law of California concerning Workers' Compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against the liability CONTRACTOR may have for Workers' Compensation.

8.3 AUTOMOBILE LIABILITY INSURANCE. During the term of this Agreement, CONTRACTOR shall maintain in full force and effect a policy of automobile liability insurance with minimum coverage of one million dollars (\$1,000,000.00) combined single limit per accident for bodily injury and property damage for any automobile used for any service required or provided under the terms of this Agreement.

8.4 PROFESSIONAL LIABILITY INSURANCE. During the term of this Agreement, CONTRACTOR shall maintain in full force and effect a policy of professional liability insurance with minimum coverage of one million dollars (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) in the aggregate with a maximum deductible or self-insurance portion of Five Thousand Dollars (\$5,000.00).

9. TERMINATION.

9.1 COUNTY may terminate or amend this agreement immediately upon giving written notice to the other party if advised that funds are not available from external sources for this agreement or for any portion hereof, or if funds in the COUNTY's yearly proposed and final budget are not appropriated by COUNTY for this agreement or any portion thereof.

9.2 CONTRACTOR may terminate its duties under this Agreement upon thirty (30) days written notice to the COUNTY if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by COUNTY.

9.3 If in the opinion of COUNTY, CONTRACTOR fails to perform the Services required under this Agreement within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation, or other law which applies to its performance herein, COUNTY may terminate this Agreement immediately, upon notice. In such event, COUNTY shall pay to CONTRACTOR only for the Services performed in accordance with this Agreement up to and including the date of termination, less the amount of any damages sustained by COUNTY as a result of CONTRACTOR'S breach of this Agreement.

9.4 At any time for any reason, upon thirty (30) days written notice to CONTRACTOR, COUNTY may terminate this Agreement and pay only for those Services rendered as of the date when termination is effective. Notice shall be deemed served on the date of mailing.

9.5 These terms are effective until terminated by either party. COUNTY reserves the right, in COUNTY'S sole discretion, to terminate CONTRACTOR'S access to any or all of the confidential information and the related Services or any portion thereof at any time, without notice.

IN WITNESS WHEREOF, the parties have last executed this contract in Del Norte County on this

_____ day of _____, 2020.

“COUNTY”

“CONTRACTOR”

COUNTY OF DEL NORTE

Gerry Hemmingsen, Chair
Board of Supervisors

ATTEST:

Kylie Goughnour
Clerk of the Board

APPROVED AS TO FORM:

Joel Campbell-Blair
County Counsel

ATTACHMENT A
SCOPE OF WORK – PROFESSIONAL SERVICES

A.1. SERVICES

Under general administrative direction of the Director of Health and Human Services and the Public Health Officer, the Deputy County Public Health Officer plans, organizes, directs and coordinates Public Health Department programs and services; enforces local health orders and ordinances; assesses the community health status, and advises the Director and Board of Supervisors on community health issues; coordinates assigned activities with other County departments and outside agencies; and performs related work as required.

Contractor may perform the following services:

- Fill in and assume the duties of the Public Health Officer as needed on a temporary basis.
- Coordinate or integrate the resources of health care institutions, social service agencies, public safety workers, or other organizations to improve the community health.
- Deliver presentations to lay or professional audiences.
- Design or use surveillance tools, such as screening, lab reports, and vital records, to identify health risks.
- Develop or implement interventions to address behavioral causes of diseases.
- Direct or manage prevention programs in specialty areas such as occupational, infectious disease, and environmental medicine.
- Evaluate the effectiveness of prescribed risk reduction measures or other interventions.
- Identify groups at risk for specific preventable diseases or injuries.
- Perform epidemiological investigations of acute and chronic diseases.
- Prepare preventive health reports including problem descriptions, analyses, alternative solutions, and recommendations
- Assist departmental administration in public health program that may include disease control, environmental health services, health education, maternal and child health, nursing, nutrition, occupational health, and primary health care.
- Interface with the professional medical community to assure knowledge of ongoing and emerging public health threats, current and new developments in standards of care, mandatory reporting requirements and appropriate interventions to reduce the transmission of communicable diseases.
- Review and approve reports, health alerts and related correspondence for distribution to other public agencies and the public.
- Assist with community outreach and education on critical health issues.
- Work with governmental, public, and private agencies in programs concerning public health.
- Act as a consultant to professional staff members and members of the medical profession on problems concerning public health.
- Participate in and provides input on matters related to the functions and activities of the public health program.
- Participate in the formation and continuation of vaccination healthcare teams working collaboratively with local hospitals.
- May provide consultation on medical matters pertaining to prospective and/or current employees.
- May speak before professional and community groups relative to public health education and/or health hazards.
- Provide professional supervision to public health nurses and staff.

ATTACHMENT A
SCOPE OF WORK – PROFESSIONAL SERVICES

A.2. TIME SERVICES RENDERED.

The Deputy Public Health Officer will act as backup and assistant to the Public Health Officer (PHO). The hours worked would include 24 hour coverage by phone to relieve the Public Health Officer during Public Health Emergencies and in-person response when necessary. During extreme conditions, the Deputy Public Health Officer will work as part of the Public Health team along with the PHO.

A.3. MANNER SERVICES ARE TO BE PERFORMED.

As an independent contractor, CONTRACTOR shall be responsible for providing Services and fulfilling obligations hereunder in a professional manner. COUNTY shall not control the manner of performance.

A.4. FACILITIES FURNISHED BY COUNTY.

CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.

ATTACHMENT B

PAYMENT

B.1 BASE CONTRACT FEE

B.2 PAYMENT REQUESTS

CONTRACTOR shall submit requests for payment in a format approved by the County Auditor-Controller after completion of services, no more than two times per month, no later than the tenth (10th) day following provision of services. Payment for services shall be made within three weeks after receipt of invoice.

An invoice (Attachment "C") should be submitted and mailed to the address listed on the invoice.

B.3 TRAVEL COSTS.

COUNTY shall cover CONTRACTOR's travel expenses for lodging, airfare (includes travel to and from airport), and mileage reimbursement for travel in excess of 100 miles per trip driven. CONTRACTOR shall submit an invoice itemizing all travel expenditures. COUNTY shall pay COUNTY per diem rates in effect on the date of invoice upon presentation of invoice.

B.4 OTHER COSTS.

COUNTY shall cover CONTRACTOR's registration fees for trainings associated with the Services provided under this Agreement. CONTRACTOR shall submit an invoice for registration fees paid.

B.5 AUTHORIZATION REQUIRED.

COUNTY shall not pay for services performed by CONTRACTOR and not authorized in this Agreement. COUNTY shall make payment for additional services to CONTRACTOR if, and only if, both parties in advance of performing additional services amend this Agreement.

ATTACHMENT C

INVOICE

[Contractor's Name]

PHONE: _____

INVOICE NO:
DATE: Invoice Date

To:

COUNTY OF DEL NORTE
DEPARTMENT OF HEALTH & HUMAN SERVICES
455 K STREET
CRESCENT CITY, CA. 95531
PHONE: (707) 464-7224 FAX: (707) 465-0855

DATE OF SERVICE	HOURS/UNITS OF SERVICE	DESCRIPTION OF SERVICES	SERVICE RATE	AMOUNT

TOTAL DUE

ATTACHMENT D

GENERAL PROVISIONS

D.1. INDEMNITY.

D.1.1. To the fullest extent permitted by law, Contractor shall indemnify, defend (at Contractor's sole cost and expense and with legal counsel approved by County, which approval shall not be unreasonably withheld), protect and hold harmless County and County's Related Parties (collectively, the "Indemnified Parties"), from and against any and all Liabilities of every kind and nature whatsoever (individually, a "Claim"; collectively, "Claims") which may arise from or in any manner relate to (directly or indirectly), arise out of this agreement or as the result of any cause whatsoever regardless of any passive negligence or strict liability of an Indemnified Party. Contractor understands and acknowledges that the indemnification obligation hereunder is intended to constitute a "Type I" indemnity under California law and extends to and includes Claims arising from the active or passive negligence of Indemnified Parties.

Without limiting Contractor's obligation to indemnify County upon County's request, Contractor shall indemnify, hold harmless, protect and defend with legal counsel acceptable to the County at Contractor's sole cost, County from and against all Liabilities, paid, incurred or suffered by, or asserted against County in a judicial, administrative or regulatory forum or otherwise, whether well founded or not, for regardless of nature or type that arise out of, pertain to, or relate to the negligence, reckless, or willful misconduct of the Contractor or Contractor's Related Parties, any of Contractor's Activities.

For purposes of defense and indemnification relating to this Agreement:

- (a) "Liabilities" means liabilities, lawsuits, claims, judgments, demands, clean-up orders, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs, expenses, loss, penalties and other detriments of every nature and description whatsoever, including all costs and expenses of litigation or arbitration, attorneys fees (whether County's or Contractor's staff attorneys or outside attorneys) and court costs, whether under state or federal law except for liabilities caused by the sole negligence or willful misconduct of the indemnified party.
- (b) "County's Activities" means actions that are the sole negligence of County or the willful misconduct of County.
- (c) "County and County's Related Parties" means County and County's elected officials, officers, volunteers, representatives, partners, designees, attorneys, employees, consultants, agents, successors and assigns, and any lender of County with an interest in the Project that is the subject of this contract.
- (d) "Contractor Activities" means any actions or omissions of Contractor or Contractor's Related Parties in the performance of this Agreement, directly or indirectly arising from Contractor's operations, as well as any breach of any representation or warranty of Contractor set forth in this Agreement.

(e) "Contractor and Contractor's Related Parties" includes Contractor and its respective officers, directors, shareholders, members, partners, agents, employees, subcontractors, consultants, licensees, invitees, guarantors or affiliates. "Affiliates" means a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Contractor, where construction or interpretation of "control" shall be governed by Rule 144 of the Securities Act of 1993. Contractor shall use best efforts, or cause such persons to use best efforts, to provide County's legal counsel all reasonably necessary information relevant to such persons, including proper and legal corporate names and relationship (or lack thereof) to Contractor's articles of incorporation, certificates of good standing, and other documentation related directly or indirectly to alleged liabilities.

D.1.2. The COUNTY will be held harmless from any federal/state disallowance resulting from payments made to the CONTRACTOR. If the CONTRACTOR has received payments, it shall be liable for any federal/state disallowance made with respect to those payments. COUNTY shall recoup from the CONTRACTOR, the amount of any disallowance in the manner authorized by applicable laws and regulations.

D.1.3. In addition, the CONTRACTOR agrees to pay to COUNTY the amount of Del Norte County's liability to the federal/state government that results from the CONTRACTOR'S failure to perform the services or comply with the conditions required by this Agreement as identified by an audit exception.

D.1.4. To the extent that a federal/state audit disallowance, with or without interest, disallows a claim or claims that has or have resulted in payment by CONTRACTOR for services performed by a third-party non-governmental entity under this Agreement, or by COUNTY where such payment has been approved by CONTRACTOR, COUNTY shall be held harmless by CONTRACTOR for one hundred percent of the amount of such final audit disallowance, along with any interest thereon.

D.1.5. Both parties to this Agreement recognize that the CONTRACTOR is liable only for its own audit exceptions that relate to services under this Agreement, and has no liability for any other entity that may enter into a similar Agreement with the COUNTY for the performance of services.

D.1.6. The provisions of this section shall survive termination of this Agreement.

D.1.7. Acceptance of insurance required by this Agreement does not relieve CONTRACTOR from indemnification liability. Indemnification shall apply to all damages or claims for damages caused by CONTRACTOR'S Activities regardless if any insurance is applicable or not.

D.2. PERSONNEL.

D.2.1. CONTRACTOR shall assign only competent personnel to perform services pursuant to this Agreement. In the event that COUNTY, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONTRACTOR to perform services pursuant to this Agreement, CONTRACTOR shall remove any such person immediately upon receiving written notice from COUNTY of its desire for removal of such person or persons.

D.3. TERMINATION.

D.3.1. If in the opinion of COUNTY, CONTRACTOR fails to perform the services required under this Agreement within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation, or other law which applies to its performance herein, COUNTY may terminate this Agreement immediately, upon notice. In such event, COUNTY shall pay to CONTRACTOR only for the services performed in accordance with this agreement up to and including the date of termination, less the amount of any damages sustained by COUNTY as a result of CONTRACTOR'S breach of this Agreement.

D.3.2. At any time for any reason, upon thirty days written notice to CONTRACTOR, County may terminate this Agreement and pay only for those services and material rendered as of the date when termination is effective, however, COUNTY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. The foregoing is cumulative and does not affect any right or remedy which COUNTY may have in law or equity.

D.3.3. CONTRACTOR may terminate its duties under this Agreement upon thirty (30) days written notice to the COUNTY if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by COUNTY.

D.3.4. These terms are effective until terminated by either party. The COUNTY reserves the right, in its sole discretion, to terminate CONTRACTOR'S access to any or all of the confidential information and the related services or any portion thereof at any time, without notice.

D. 4. TIME.

D.4.1. CONTRACTOR shall devote such time to the performance of Services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party. Time is of the essence for this Agreement and each covenant, term and condition herein.

D.5. CONFIDENTIAL INFORMATION.

D.5.1. In the performance of this Agreement, CONTRACTOR may receive confidential information. Said information may be confidential under the laws of California and or the laws of the United States. CONTRACTOR shall comply with all laws regarding confidentiality and shall advise and require all subcontractor's to comply with the laws of confidentiality. All documents, writings or other communications, reports, information, work sheets, reports, related data and work product developed under this Agreement shall be the property of COUNTY, and CONTRACTOR shall deliver such documents to

COUNTY without exception or reservation on completion of the Services hereunder or termination.

Neither the CONTRACTOR or COUNTY, its officers, employees, agents, or subcontractors, shall without written authorization given by the COUNTY's CAO or unless requested by the County Counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property. Response to a subpoena or court order shall not be considered "voluntary" provided COUNTY or CONTRACTOR gives notice to the other party of such court order or subpoena.

If CONTRACTOR or its officer, employees, or subcontractors does voluntarily provide information in violation of this Agreement, COUNTY has the right to reimbursement and indemnity from the party releasing such information for any damages caused by CONTRACTOR, including COUNTY's attorney's fees.

CONTRACTOR and COUNTY shall promptly notify the other party should COUNTY or CONTRACTOR, its officers, employees, agents, or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement. CONTRACTOR and COUNTY each retains the right, but has no obligation, to represent the other party and/or be present at any deposition, hearing or similar proceeding. County and CONTRACTOR agree to cooperate fully with the other party and to provide the other party with the opportunity to review any response to discovery requests provided by County or CONTRACTOR. However, CONTRACTOR and COUNTY's right to review any such response does not imply or mean the right by the other party to control, direct, or rewrite said response.

CONTRACTOR shall comply with all laws regarding confidentiality and shall advise and require all subcontractors to comply with the laws of confidentiality. All press releases and informational material shall receive approval from COUNTY prior to being released to the media.

D.6. DUTY OF HEIGHTENED CARE.

D.6.1. All compensation payable to CONTRACTOR hereunder shall be paid by COUNTY. CONTRACTOR acknowledges and recognizes that services under this Agreement have its source from tax dollars from tax payers of the State of California and that, given this fact, a heightened duty of care exists in CONTRACTOR to ensure that CONTRACTOR scrupulously adheres to principles of moderation, frugality and cost consciousness in carrying forth the goals of and completing the services pursuant to this Agreement.

D.7. FINANCIAL RECORDS AND AUDITS.

D.7.1. CONTRACTOR shall maintain at CONTRACTOR's office or other place acceptable to COUNTY full and complete accounting books and records, or copies thereof, prepared in accordance with generally accepted accounting principles, reflecting its revenues and expenses of fulfilling its performance obligations.

D.8. RIGHT TO SUBSTANTIATION.

D.8.1. COUNTY reserves the right to require substantiation of any item of claimed expense or compensation. Overly generalized listing of task descriptions are not acceptable, rather, CONTRACTOR shall provide a detailed description which will provide a meaningful record to an independent auditor reviewing task description. Any work product or memoranda or other written material described in the entries shall be produced for COUNTY as requested.

D.9. AGREEMENT ENFORCEMENT.

D.9.1. ASSURANCE OF PERFORMANCE. COUNTY may, at its option and in addition to all other remedies it may have, demand from CONTRACTOR reasonable assurances of timely and full performance hereunder, if:

D.9.1.1. CONTRACTOR is the subject of any labor unrest specifically targeted to its performance obligations under this Agreement (including work stoppage or slowdown, sick-out, picketing or other concerted job action); or

D.9.1.2. Is unable to regularly pay its bills as they become due; or

D.9.1.3. Is the subject of a final, non-appealable civil judgment over ten thousand dollars, (\$10,000) or a criminal judgment or order entered by a federal, state, regional or local agency for violation of an environmental or tax law; or

D.9.1.4. COUNTY believes in good faith that CONTRACTOR's ability to timely and fully perform performance obligations has thereby been placed in substantial jeopardy.

D.9.2. If CONTRACTOR fails or refuses to provide such reasonable assurances within ten (10) days' notice by COUNTY such failure or refusal shall constitute a CONTRACTOR Event of Default.

D.10. EVENTS OF BREACH.

D.10.1. RIGHT TO SETOFF. COUNTY shall have the right to reduce payment to CONTRACTOR for valid setoffs. Valid setoffs shall include:

D.10.1.1. The cost to correct defective work which has not been remedied by the CONTRACTOR; or

D.10.1.2. Costs resulting from default by CONTRACTOR on any other term or condition of this Agreement; or

D.10.1.3. Employee related expenses imposed upon COUNTY as a result of CONTRACTOR's rendition of services under this Agreement.

D.10.2. CONTRACTOR'S DUTY OF NOTICE ON DEFAULT. Promptly on discovery of an Event of Default under this Agreement, CONTRACTOR shall deliver telephone notice

to COUNTY (confirmed within 3 calendar days by written notice from CONTRACTOR); describing the event and all action Borrower proposes to take with respect to such event.

D.10.3. COUNTY's RIGHT TO CURE. If CONTRACTOR fails to perform any obligation contained in this Agreement, COUNTY may itself perform, or cause the performance of, such agreement or obligation. In that event, CONTRACTOR will, on demand, reimburse COUNTY for all such expenditures, and shall pay COUNTY interest on the amount of such expenditures from the date of such expenditure until full reimbursement at 10% per annum. The performance of any act or payment by COUNTY as provided in this Agreement shall not be deemed a waiver or release of any obligation or default or the part of CONTRACTOR.

D.11. EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default ("Event of Default") hereunder:

D.11.1. Either party fails to perform or observe any term, covenant, or undertaking in this Agreement to be performed or observed by it.

D.11.2. Any representation or disclosure made to COUNTY by CONTRACTOR in connection with or as an inducement to entering into this Agreement or any future amendment to this Agreement which proves to be false or misleading in any material respect as of the time the representation or disclosure is made or bring down thereof, whether or not any such representation or disclosure appears as part of this Agreement or CONTRACTOR knowingly makes, causes to be made or condones the making of any false entry in its books, accounts, records and reports hereunder.

D.11.3. CONTRACTOR or COUNTY fails to pay any amount due under this Agreement.

D.11.4. Either party informs the other party of its intention not to perform or observe a term or provision of this Agreement.

D.11.5. Either party fails to provide reasonable assurances of performance.

D.11.6. There is a seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession on, the operating equipment of CONTRACTOR, including without limit its vehicles and equipment, maintenance or office facilities, or any part thereof of such proportion as to impair CONTRACTOR's ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within forty-eight (48) hours excluding weekends and COUNTY Holidays.

D.11.7. CONTRACTOR files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to CONTRACTOR or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator (or similar official) of CONTRACTOR for a part of CONTRACTOR's operating assets or any substantial part of CONTRACTOR's property, or shall make any general assignment for the benefit of CONTRACTOR's creditors, or shall fail generally to pay CONTRACTOR's debts as they become due.

D.11.8. Any court having jurisdiction shall enter a decree or order for relief in respect of CONTRACTOR, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or CONTRACTOR shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of CONTRACTOR or for any part of CONTRACTOR's operating equipment or assets, or order the winding up or liquidation of the affairs of CONTRACTOR;

D.11.9. CONTRACTOR fails to notify COUNTY in a timely manner of any receipt of notice of violation or official communication from those regulatory agencies regulating activities to be performed under this Agreement, including traffic or transportation-related citations, and OSHA inspections.

D.11.10. Lapse of any insurance required under this Agreement.

D.11.11. If CONTRACTOR fails to satisfy conditions in accordance with this Agreement and such conditions are not waived by the COUNTY.

D.12. EXCUSE FROM PERFORMANCE.

D.12.1. The parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of floods, earthquakes, tsunamis, other "acts of God", war, civil insurrection, riots, and other similar catastrophic events which are beyond the control of and not the fault of the party claiming excuse from performance hereunder. Labor unrest, including but not limited to strike, work stoppage or slowdown, sickout, picketing, or other concerted job action conducted by CONTRACTOR's employees or directed at CONTRACTOR is not an excuse from performance and CONTRACTOR shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events. In the case of labor unrest or job action directed at a third party over whom CONTRACTOR has no control, the inability of CONTRACTOR to provide Agreement services due to the unwillingness or failure of the third party to provide reasonable assurance of the safety of CONTRACTOR's employees while providing Agreement services to minimize any confrontation with pickets shall, to that limited extent, excuse performance. The foregoing excuse shall be conditioned on CONTRACTOR's cooperation in providing services at different times.

D.12.2. The party claiming excuse from performance shall, within two (2) days after such party has notice of such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this Section. Notwithstanding, CONTRACTOR in the event of a catastrophic event shall comply with COUNTY's Emergency Preparedness Plan.

D.12.3. In the event that either party validly exercises its rights under this Section, the parties hereby waive any claim against each other for any damages sustained thereby.

D.12.4. The partial or complete interruption or discontinuance of CONTRACTOR's services caused by one or more of the events described in this Section and constituting

an excuse from performance shall not constitute an event of Default by CONTRACTOR under this Agreement. Notwithstanding the foregoing, however, the existence of an excuse from performance shall not affect COUNTY's Right to Perform Upon Default; and if CONTRACTOR is excused from performing its obligations hereunder for any of the causes listed in this Section for a period of thirty (30) days or more, other than as the results of third party labor disputes where service cannot be provided for reasons described earlier in this Section, COUNTY shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days notice.

D.13. REMEDIES UPON DEFAULT.

D.13.1. Upon occurrence of a CONTRACTOR Event of Default, COUNTY shall have the following rights:

D.13.1.1. COUNTY's Right to Perform Upon Default. In addition to any and all other legal or equitable remedies, in the event that CONTRACTOR, for any reason whatsoever, fails, refuses or is unable to perform services which it is required by the Agreement to perform, at the time and in the manner provided in this Agreement, then COUNTY shall have the right, but not the obligation, to cause to be performed such services with other personnel;

D.13.1.2. Right to Terminate Upon Default. COUNTY shall have the right to terminate this Agreement without need for any hearing, suit or legal action. CONTRACTOR shall forfeit any performance bond to COUNTY as liquidated damages upon such termination;

D.13.1.3. Right to Suspend the Agreement. COUNTY shall have the right to suspend the Agreement, at the COUNTY's option, perform CONTRACTOR's obligations; and

D.13.1.4. All Other Available Remedies. COUNTY shall have the right to exercise its remedies in accordance with this Agreement and any other available remedies at law and in equity, including specific performance.

D.13.2. COUNTY's termination of the Agreement shall not constitute an election of remedies. Instead, all remedies provided for in this Agreement shall be in addition to any and all other legal and equitable rights and remedies which COUNTY may have under law or as otherwise provided in this Agreement.

D.13.3. By virtue of the nature of this Agreement, the urgency of timely, continuous and high quality service, the lead time required to effect alternative service, and the rights granted by COUNTY to CONTRACTOR, the remedy of damages for a breach hereof by CONTRACTOR is inadequate and COUNTY shall be entitled to injunctive relief.

D.13.4. In the event either party is entitled to recover damages for breach of this Agreement, the damages shall bear interest at a rate equal to the statutory amount of ten percent for private parties and seven percent if against a governmental entity, commencing on the date of breach.

D.14. OWNERSHIP OF INFORMATION.

D.14.1. All documents, writings or other communications, reports, information, work sheets, reports, related data and work product developed under this Agreement shall be the property of COUNTY, and CONTRACTOR shall deliver such documents to COUNTY without exception or reservation on completion of the services hereunder or termination. The COUNTY agrees to hold CONTRACTOR harmless from any claim arising out of reuse of the information for other than this project.

D.15. COUNTY'S OBLIGATION SUBJECT TO AVAILABILITY OF FUNDS.

D.15.1. The COUNTY's obligation under this agreement is subject to the availability of authorized funds. The COUNTY may terminate the agreement, or any part of the agreement work, without prejudice to any right or remedy of the COUNTY, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or limited in any way prior to the expiration date set forth in this agreement, or any subsequent Amendment, the COUNTY may, upon written Notice to the CONTRACTOR, terminate this agreement in whole or in part.

D.15.2. Payment shall not exceed the amount allowable for appropriation by the County Board of Supervisors. If the agreement is terminated for non-appropriation, the COUNTY will be liable only for payment in accordance with the terms of this agreement for services rendered prior to the effective date of termination; and CONTRACTOR shall be released from any obligation to provide further services pursuant to this Contract that are affected by the termination.

D.15.3. Funding for this Contract beyond the current appropriation year is conditional upon appropriation by the Board of Supervisors of sufficient funds to support the activities described in this Contract. Should such an appropriation not be approved, this Contract will terminate at the close of the current Appropriation Year.

D.15.4. This Contract is void and unenforceable if all or part of federal or State funds applicable to this Contract are not available to County. If applicable funding is reduced, County may either: Cancel this Contract or, offer a contract amendment reflecting the reduced funding.

D.16. WAIVER.

D.16.1. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

D.17. COMPLETENESS OF INSTRUMENT.

D.17.1. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

D.18. SUPERSEDES PRIOR AGREEMENTS.

D.18.1. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

D.19. ATTORNEY'S FEES.

D.19.1. If any action at law or in equity, excepting an action for declaratory relief, is brought to enforce provisions of this Agreement by reason of the alleged failure of the other to perform or keep any provision or this Agreement to be performed or kept, the prevailing party in such action or proceeding (including appeal) shall be entitled to recover court costs and reasonable attorney's fees (including reasonable value of services rendered by attorney's employed by COUNTY) which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled. As used herein, the "prevailing party" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

D.20. COMPLIANCE WITH LAWS.

D.20.1. CONTRACTOR's services hereunder shall be conducted in accordance with all the laws, ordinances, rules and regulations applicable to such business as set forth by the DHHS, COUNTY, State of California, and the United States government. CONTRACTOR agrees to indemnify COUNTY against any damages, expenses, or price reductions under this Agreement resulting from CONTRACTOR's or CONTRACTOR's lower-tier sub' failure to comply with the above laws and regulations.

D.21. SUCCESSORS AND ASSIGNS.

D.21.1. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns. COUNTY and CONTRACTOR recognize and acknowledge that CONTRACTOR is hereunder employed in a position where CONTRACTOR will be rendering services of a special, unique, unusual and extraordinary character requiring extraordinary ingenuity and effort by CONTRACTOR. The parties hereto recognize that a substantial inducement to COUNTY for entering into this Agreement is the reputation, experience, and competence of CONTRACTOR. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the CONTRACTOR's duties be delegated, without the express written consent of the COUNTY. Any attempt to assign or delegate this Agreement without the express written consent of COUNTY shall be void and of no force or effect. Consent by COUNTY to one assignment shall not be deemed to be consent to any subsequent assignment. CONTRACTOR shall provide qualifications of assignees for review by COUNTY, which will not unreasonably withhold consent. CONTRACTOR shall not subcontract any portion of the work to be performed without the prior written authorization of COUNTY. If COUNTY consents to said subcontract, CONTRACTOR shall be fully responsible to COUNTY for all acts or omissions of

subcontractor. Nothing in this Agreement shall create any contractual relationship between COUNTY and subcontractor nor shall it create any obligation on the part of COUNTY to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

D.22. INDEPENDENT CONTRACTOR.

D.22.1. COUNTY and CONTRACTOR are and at all times shall be and remain independent contractors as to each other, and no joint powers agency or other legal relationship which would impose vicarious liability upon one party for the act or omission of the other shall be created or implied hereby or herefrom. CONTRACTOR acknowledges that CONTRACTOR's employees shall not be covered under the COUNTY's employee benefit plan. At all times during the term of this Agreement, CONTRACTOR shall be responsible for its own operating costs and expenses, property and income taxes, workers' compensation insurance, and any other costs and expenses in connection with performance of services under this Agreement. Neither party has or shall have the power to bind the other party or to assume or to create any obligation or responsibility, express or implied, on behalf of, or in the name of the other party. CONTRACTOR shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. COUNTY shall have the right to control CONTRACTOR only insofar as the results of CONTRACTOR's services rendered pursuant to this Agreement. COUNTY shall not have the right to control the means by which CONTRACTOR accomplishes services rendered pursuant to this Agreement.

D.23. MODIFICATION.

D.23.1. No modification or waiver of any provision of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

D.24. COUNTERPARTS.

D.24.1. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

D.25. OTHER DOCUMENTS.

D.25.1. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

D.26. INSEVERABILITY/FRUSTRATION OF PURPOSE.

D.26.1. The provisions of this agreement are not severable. Should any provision of this agreement be invalidated in any legal proceeding, it shall be considered a frustration of the purpose of this agreement, and the agreement shall be void.

D.27. JURISDICTION.

D.27.1. This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder or relating to this Agreement shall be litigated in the State of California and venue shall lie in the COUNTY of Del Norte or the U.S. District Court, California Northern District, and CONTRACTOR hereby consents and submits to the personal jurisdiction of such courts for the purposes of litigating any such action.

D.28. TIME IS OF THE ESSENCE.

D.28.1. Time is of the essence of this Agreement and each covenant and term a condition herein.

D.29. AUTHORITY.

D.29.1. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, estates, or firms represented or purported to be represented by such entity(s), person(s), estate(s), or firm(s) and that all formal requirements necessary or required by any stated and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

D.30. CONFLICT OF INTEREST.

D.30.1. Neither a COUNTY employee whose position in COUNTY enables such employee to influence the award of this Agreement or any competing Agreement, nor a spouse or economic dependent of such employee, shall be employed in any capacity by CONTRACTOR herein, or have any other direct or indirect financial interest in this Agreement.

D.31. ADVICE OF COUNSEL.

D.31.1. The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this contract, and that the decision of whether or not to seek the advice of counsel with respect to this contract is a decision which is the sole responsibility of each of the parties hereto. As both parties jointly prepared this Agreement, the language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

D.32. INDEPENDENT REVIEW.

D.32.1. Each party hereto declares and represents that in entering this contract it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this contract is being made without reliance upon any statement or

representation not contained herein of any other party, or any representative, agent, or attorney of any other party.

D.33. POSSESSORY INTEREST.

D.33.1. A taxable possessory interest, as those words are used in the California Revenue and Taxation Code section 107, may be created by this Agreement; and if created, the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

D.34. TAXES.

D.34.1. The CONTRACTOR shall pay all applicable federal, state, and local excise, sales, consumer use, and other similar taxes required by law for the execution of the work. CONTRACTOR hereby grants to the COUNTY the authority to deduct from any payments to CONTRACTOR any COUNTY imposed taxes, fines, penalties, and related charges which are delinquent at the time such payments under this Agreement are due to CONTRACTOR.

D.35. NON-DISCRIMINATION.

D.35.1. Throughout the duration of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code section 12900, set forth in Chapter 5, 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 shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

D.36. REHABILITATION ACT OF 1973/AMERICANS WITH DISABILITIES ACT OF 1990.

D.36.1. In addition to application of the non-discrimination provision of this Agreement above, CONTRACTOR agrees to also comply with all provisions of section 504 et seq. of the Rehabilitation Act of 1973, and with all provisions of the Americans with Disabilities Act of 1990, and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts, pertaining to the prohibition of discrimination against qualified handicapped and disabled persons, in all programs or activities, as to employees or recipients of services.

D.37. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.

D.37.1. CONTRACTOR warrants that it is knowledgeable of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations issued by the U.S. Department of Health and Human Services (45 C.F.R. Parts 160-164) regarding the protection of health information obtained, created, or exchanged as a result of this Agreement and shall abide by and implement its statutory requirements.

D.38. CAPTIONS.

D.38.1. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

D.39. DEFINITIONS.

D.39.1. Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

D.39.1.1. NUMBER AND GENDER. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms, or associations, wherever the context so requires.

D.39.1.2. MANDATORY AND PERMISSIVE. "Shall", "will", and "agrees" are mandatory. "May" is permissive.

D.40. NOTICES.

D.40.1. Any notice required to be given under this Agreement may be given by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested. Notice shall be deemed communicated as of three days from mailing or the day that personal service was effectuated. Mailed notices shall be addressed as set forth below, but each party may change [his or her or its] address by written notice in accordance with this paragraph.

D.40.1.1. If to "COUNTY":

Heather Snow, Director
Del Norte County Department of Health and Human Services
880 Northcrest Drive
Crescent City, CA 95531

With a copy to:

County of Del Norte
Office of County Counsel
981 H Street, Suite 220
Crescent City, CA 95531

D.40.1.2. If to "CONTRACTOR":

D. 41. LICENSES, PERMITS, LAWS.

D.41.1. CONTRACTOR represents and warrants to COUNTY that it has and will maintain throughout the life of this Agreement all appropriate licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to perform under this agreement. Failure of the CONTRACTOR to comply with this provision shall authorize the COUNTY to immediately terminate this Agreement notwithstanding Operative Provision No. 14. CONTRACTOR shall comply with any and all applicable federal, state and local laws, regulations, orders and resolutions affecting the services covered by this Agreement, including, but not limited to, the Americans with Disabilities Act.

D.42. STANDARD OF PERFORMANCE.

D.42.1. CONTRACTOR warrants that CONTRACTOR, as well as each of its agents, employees and subcontractors has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CONTRACTOR'S duty is to exercise such care, skill, and diligence exercised by professionals engaged in the same profession optimally exercise under like circumstances. County has relied upon the professional ability and training of CONTRACTOR as a material inducement to enter this Agreement. It is understood that acceptance of CONTRACTOR'S work by COUNTY shall not operate as a waiver or release. All products of whatsoever nature which CONTRACTOR delivers to COUNTY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards or quality normally observed by a person practicing in CONTRACTOR'S profession.

D.43. ENTIRE AGREEMENT.

D.43.1. This Agreement, together with its specific references and attachments, is the complete statement of the subject between the parties and takes the place of all prior discussions, negotiations, whether oral or written. This Agreement shall not be modified except in writing, signed by both parties. Unless set forth herein, neither party shall be liable for any representations made express or implied.

D.44. FEDERAL HEALTH CARE PROGRAM EXCLUSION

D.44.1. CONTRACTOR shall not employ or contract with providers or other individuals and entities excluded from participation in Federal health care programs (as defined in section 1128B(F) of the Social Security Act) under either Section 1128, 1128A, or 1156 of the Social Security Act. Federal financial participation is not available for amounts expended for providers excluded by Medicare, Medicaid or the State Children's Insurance Program, except for emergency services.

D.44.2. CONTRACTOR hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part.

D.44.3. CONTRACTOR shall screen all staff employed or retained to provide services related to this Agreement to ensure that they are not designated as "Ineligible" or "Excluded" as defined hereunder. Screening shall be conducted against both the California "Medi-Cal Suspended and Ineligible List", and the United States, Health and Human Services, Office of Inspector General "List of Excluded Individuals/Entities" or any other list pursuant to 42 C.F.R. 438.214(d). CONTRACTOR shall screen prospective staff prior to hire or engagement.

D.44.4. CONTRACTOR and staff shall be required to disclose to COUNTY immediately any debarment, exclusion or other event that makes CONTRACTOR or any staff person an Ineligible or Excluded person. If the CONTRACTOR becomes aware that a staff member has become an Ineligible or Excluded person, CONTRACTOR shall remove such individual from responsibility for, or involvement with, business or health care operations related to this Agreement.

D.44.5. CONTRACTOR shall indemnify and hold COUNTY harmless against any and all loss or damage COUNTY may suffer arising from any Federal exclusion of CONTRACTOR or its staff members from such participation in a Federally funded health care program.

D.44.6. Failure by CONTRACTOR to meet the requirements of this Section, D.44, shall constitute a material breach of Agreement upon which COUNTY may immediately terminate or suspend this Agreement.

D.45. ENVIRONMENTALLY PREFERRED PRODUCTS POLICY

D.45.1. It is the policy of the Board of Supervisors of Del Norte County to provide for the procurement of environmentally preferable products, including reusable, reused, recycled, and composted products. The Del Norte County Board of Supervisors, its departments, staff, and contractors shall specify and utilize these products whenever practical.