



**County of Solano
Standard Contract**

For County Use Only
CONTRACT NUMBER:
(Dept., Division, FY, #)

BUDGET ACCOUNT:

SUBJECT ACCOUNT:

1. This Contract is entered into between the County of Solano and the Consultant named below:

First Carbon Solutions dba Michael Brandman Associates

CONSULTANT'S NAME

2. The Term of this Contract is: **November 26, 2013 – December 31, 2014**

3. The maximum amount of this Contract is: **\$47,295**

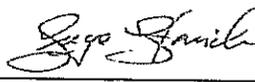
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of this Contract:

Exhibit A – Scope of Work

Exhibit B – Budget Detail and Payment Provision

Exhibit C – General Terms and Conditions

This Contract is made on November 26, 2013.

<u>Consultant</u>	<u>COUNTY OF SOLANO</u>
First Carbon Solutions dba Michael Brandman Associates	
CONSULTANT'S NAME	AUTHORIZED SIGNATURE
	Birgitta E. Corsello, County Administrator
SIGNATURE	TITLE
Serge Stanich, Director of Regulatory Compliance	675 Texas St., Ste. 6500
PRINTED NAME AND TITLE	ADDRESS
2000 "O" Street, Suite 200	Fairfield, CA 94533
ADDRESS	CITY STATE ZIP CODE
Sacramento, CA 95811	Approved as to Content:
CITY STATE ZIP CODE	DEPARTMENT HEAD OR DESIGNEE
	Approved as to Form:
	
	COUNTY COUNSEL

Rev. 1/09/08

CONTRACT MUST BE EXECUTED BEFORE WORK CAN COMMENCE

EXHIBIT A
SCOPE OF WORK

**Pre-Construction Regulatory Compliance Services for the Solano360
Specific Plan Project**

Project Understanding

The 149.11-acre Solano County Fairgrounds site is located immediately southwest of the Interstate 80 (I-80) and State Route 37 (SR-37) interchange in the City of Vallejo, California, immediately south of the Six Flags Discovery Kingdom theme park and Lake Chabot. The proposed project site consists of the existing Solano County fairgrounds, which includes administration and exposition buildings, a horse track, grandstands, equestrian buildings, horse barns, and several parking areas. Four existing creeks – including North, Center, and South Rindler Creeks, and Blue Rock Springs – have been diverted into a combination of underground pipes and open channels at the site.

Through the development of the Specific Plan for the project site, the County and City identified that the Solano360 project is intended to be a regional destination for entertainment, with supporting retail, hotel, office, and other uses compatible with, and complementary to surrounding land uses, such as the adjacent Six Flags Discovery Kingdom. Key project components include a dedicated Entertainment Area and Fairground. The land use concept of the Entertainment Area is intended to facilitate the upgrade and expansion of the existing Fairgrounds, development of “Entertainment-Mixed Use” venues and facilities that may be feasible in the near term, and creation of a larger parcel for future “Entertainment-Commercial” use as a new, major anchor, or entertainment “gate.” The entertainment project area would authorize up to 327,571 square feet of retail, commercial, entertainment, and open space on 48.8 acres at the time of full build-out. Within the 48.8 acres, the Entertainment Area would include 30 acres of theme park-type uses, as well as three parking structures.

The fairgrounds portion of the site would include up to 149,500 square feet of new building space at the time of full build-out, including a new exposition hall and new concert arena/grandstand cover. All existing fair facilities would be demolished with the exception of several buildings.

Primary drainage infrastructure improvements for the project site include removing the site from the flood plain. Stormwater enters the site from central and South Rindler Creek as well as Blue Rock Springs. The existing drainage channel on the site that connects to Lake Chabot is not sufficient to contain the offsite flows; accordingly, in order to remove the site from the flood plain, the existing Fairgrounds channel would be widened and deepened in addition to improving the existing culvert under Fairgrounds Drive. Based on FCS’s understanding of the project plans, phasing, and knowledge of the project vicinity, the reaches of Rindler Creek and Blue Rock Spring support suitable habitat for California Red-Legged Frog (CRLF) and Northwestern Pond Turtle. In addition, project plans may call for work within federal and state-jurisdictional waters. As such, a scope of work for the completion of protocol CRLF surveys, a wetland delineation, and development of a regulatory compliance strategy is presented below.

Scope of Work

Task 1: Project Initiation, Project Management, and Coordination

Consultant (“FCS”) shall provide project management for each Item of Work described in this Scope of Work. FCS’s Project Manager will proactively manage the project development process, assure that the key submittal milestone events are met, and that County staff is kept informed on Project issues. Management activities will consist of meeting attendance, routine communication including phone

conversations and emails, scheduling, coordination, quality assurance and quality control (QA/QC) and project administration including budget management and invoicing.

QA/QC methods will be employed by FCS to ensure the quality and content of deliverables meet the professional standards of care.

Task 2: Protocol California Red-Legged Frog (CRLF) Surveys

A qualified biologist, familiar with the distinguishing physical characteristics of CRLF, other anurans of California, and with introduced, exotic species such as the bullfrog, will conduct protocol-level surveys for CRLF in the onsite drainage that traverses the property.

The survey will be conducted in accordance with the U.S. Fish and Wildlife Service (USFWS) Revised Guidance on Site Assessments and Field Surveys for the California Red-Legged Frog (Guidance) (USFWS 2005). FCS will conduct a total of eight surveys to determine the presence of CRLF within the drainage. Six (6) surveys will be conducted during the peak identification period (January 1 through June 31); including four (4) nighttime surveys and two (2) daytime surveys. The remaining two (2) surveys will be conducted outside of the breeding season (July 1 through September 30); including one (1) nighttime survey and one (1) daytime survey. Each survey will take place seven (7) days apart, although daytime surveys may be conducted on the same day as nighttime surveys. Approved CRLF survey forms will be filled out completely and accurately for inclusion in a survey report for submittal to the County for review. Once finalized, the report will be submitted to USFWS by either FCS or the County. When surveys have been completed, FCS will prepare a report for submittal to USFWS in conformance with the reporting guidelines contained in the USFWS Guidance document. The report will include copies of data sheets and field notes, photographs of observations, and all maps and exhibits required. Should CRLF be documented at the pond, FCS also will complete the appropriate forms and submit them to the California Department of Fish and Wildlife (CDFW) for inclusion in the California Natural Diversity Data Base (CNDDB).

Deliverables: One electronic copy of draft report
 Three (3) copies final report; one (1) electronic copy of final report

Task 3: Focused Northwestern Pond Turtle Surveys

Mitigation Measure BIO-1a of the Draft EIR provides that Pacific Pond Turtle [more commonly referred to as Northwestern Pond Turtle, (*Actinemys marmorata*)] surveys shall be conducted within the reaches of the creeks associated with the site. As a Species of Concern, there is currently no formally adopted survey protocol for Northwestern Pond Turtle surveys within Northern California. In order to satisfy the adopted mitigation measure, FCS biologists will conduct focused visual surveys and will thoroughly examine the project site's creek banks for signs or sightings of Northwestern Pond Turtle. During the one-day survey, onsite creeks will be characterized for important vegetation attributes (including percent overhead canopy, submergent and emergent vegetation, type of upland and riparian vegetation community), size and quality of the water features, and the presence and nature of potential basking sites. Any Northwestern Pond Turtles observed basking at the project site will be mapped and habitat data and canopy cover will be recorded.

When the focused survey has been completed, FCS will prepare a letter report for submittal to the County in compliance with Mitigation Measure Bio-1a in the Draft EIR. The letter report will describe the existing conditions of the creeks onsite and the methodology of the focused survey. In addition, the letter report will include copies of field notes, photographs of observations, and maps to support the letter

report's findings. A list of plant and wildlife species observed within the onsite creeks will also be provided.

Deliverables: One electronic copy of draft letter report
Three (3) copies final report; one (1) electronic copy of final letter report

Task 4: Jurisdictional Delineation

FCS understands that four existing creeks – including North, Center, and South Rindler Creeks, and Blue Rock Springs – have been diverted into a combination of underground pipes and open channels at the site. On August 20, 2007, the United States Army Corps of Engineers (USACE), claimed jurisdiction over 27 seasonal wetlands located in the southern portion of the project site, totaling approximately 0.51 acre. The current jurisdictional determination for the project area expired in August 2012; consequently, an updated jurisdictional delineation will be performed to quantify the existing wetlands and riparian areas present within the drainage systems on the project site. The jurisdiction of the USACE, Regional Water Quality Control Board (RWQCB), and CDFW will be identified and delineated based on a two-phased approach. Phase 1 will identify potential jurisdictional areas within the project's stream system utilizing recent aerial photographs and a review of previous prepared biological technical reports. Phase 2 consists of a jurisdictional delineation of suspected drainages identified in Phase 1. The delineation will use the presence of an ordinary high water mark and the methodology in the USACE's 1987 *Wetland Delineation Manual* for USACE/RWQCB jurisdictional waters, and RWQCB isolated waters. The boundaries of these jurisdictions will be mapped on maps of an appropriate scale. Civil surveys of any delineated areas are not covered in this scope of work. This subtask assumes that a *Preliminary Jurisdictional Determination* will be sufficient for processing the Clean Water Act (Section 404) permitting efforts. If an *Approved Jurisdictional Determination* is deemed necessary by the Corps, a scope addendum will be required.

A stand-alone report will be prepared describing baseline conditions of the jurisdictional features, offsite connectivity, and analysis of potential project impacts on each jurisdictional feature, both qualitative and quantitative, based on a provided site plan. The report will include methods, results, and an exhibit depicting the approximate size and location of all jurisdictional areas. The report will be consistent with the requirements of USACE, RWQCB, and CDFW. Copies of field data sheets will be included. The report will adhere to USACE, San Francisco District standards and describe delineation methodology and jurisdictional areas of the site.

The report will provide the necessary documentation for developing and processing Sections 401 and 404 of the Clean Water Act permits and a Section 1603 Streambed Alteration Agreement. A draft report will be submitted to the County. Based on one set of review comments from the County, a final report will be prepared. FCS will work closely with the County to recommend the most appropriate regulatory approach to meet the engineering goals of the project while minimizing the regulatory burden.

Deliverables: One electronic copy of draft report
Three (3) copies final report; one (1) electronic copy of final report

Task 5: Prepare a Regulatory Strategy Memorandum

Phase I Construction of Solano 360 may require regulatory authorization from the U.S. Army Corps of Engineers (USACE), the Regional Water Quality Control Board (RWQCB), CDFW, USFWS, and/or other state, federal, and local agencies with jurisdiction on the project.

Because the proposed project may require permit approvals from a variety of state and federal regulatory agencies, following verification of the Jurisdictional Delineation, FCS will coordinate with MacKay & Soms and the County to produce a schedule or "road map" to achieving regulatory clearance.

FCS will prepare a Regulatory Compliance Technical Memorandum (RCTM) outlining each anticipated resource agency's role and requirements and will include regulatory and permitting requirements governing the construction and implementation of the proposed project. The memorandum will identify governing laws and regulations, responsible permitting agencies, permitting triggers, compliance requirements, procedures, timelines and associated fees.

Deliverables: One electronic copy of draft memorandum
Three (3) copies final memorandum; one (1) electronic copy of final memorandum.

Schedule

TASK	TIMING
Notice to Proceed	Week 1
CRLF Protocol Surveys	
Conduct Protocol Surveys	Initiated between January 1- February 28 depending on rainfall
Submit Draft CRLF Report for Review	Two weeks following completion of surveys
Submit Final CRLF Report	Three weeks following completion of surveys
Northwestern Pond Turtle Focused Surveys	
Conduct Focused Surveys	Weeks 1-2
Submit Draft Northwestern Pond Turtle Letter Report for Review	Week 4
Submit Final Northwestern Pond Turtle Letter Report	Week 5
Jurisdictional Delineation	
Conduct Wetland Delineation Fieldwork	Weeks 1-2
Submit Draft Wetland Delineation Report to County for Review	Week 4
Submit Wetland Delineation to U.S. Army Corps of Engineers for Verification	Week 5
Regulatory Strategy Memorandum	2 weeks following wetland delineation verification

Adjustments to the Project Schedule can be made with written approval of the County, provided that any extension of time does not exceed the expiration date of the Agreement..

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. COMPENSATION

County agrees to compensate Consultant based on the Budget below.

Budget

TASK	FEE
Task 1: Project Initiation, Project Management and Coordination	\$2,680
Task 2: California Red-Legged Frog Protocol Surveys	\$21,885
Task 3: Focused Northwestern Pond Turtle Surveys	\$5,985
Task 4: Jurisdictional Delineation	\$9,795
Task 5: Regulatory Strategy Memorandum	\$5,850
Direct Costs	\$1,100
TOTAL	\$47,295

Assumptions

The assumptions used in calculating the above fees are:

- The fee is valid for up to 30 days from the date of this scope, after which it may be subject to revision.
- This cost estimate assumes that CRLF will not be identified within the drainage feature onsite and that all eight surveys will need to be conducted. USFWS guidelines state that once CRLF are documented on a site and presence is confirmed, completion of any remaining surveys is not required. Therefore, should CRLF be observed during one of the surveys, surveys will be halted and the report prepared. The County will not be charged for surveys not conducted should this occur.
- This price is based upon completion of the work within the proposed schedule. If delays occur, an amendment of the price would be warranted to accommodate additional project management and other costs, and to reflect adjustments for updated billing rates.
- Costs have been allocated to tasks, based upon FCS's proposed approach. During the work, FCS may, on its sole authority, re-allocate costs among tasks and/or direct costs, as circumstances warrant, so long as the adjustments maintain the total price within its authorized amount.
- Printing costs are based on the method of printing and binding proposed, numbers of copies proposed as work products, and estimated page lengths. Document printing costs are estimated and will be finalized at the time of printing. On further clarification of the documents and reports (paper and/or digital CD) that the applicant team or County staff will need during the preparation effort, FCS will specifically identify a detailed reproduction work plan with more specific costs.

2. SCOPE OF WORK MODIFICATIONS

FCS assumes a stable and complete project description and project plan set at project initiation. In the event the project description and/or scope of work change to a degree that alters the fee estimate, FCS will contact the applicant team or County staff in writing to submit a revised fee for mutual agreement, and a contract amendment will be processed. Requests for additional work will be documented, and a completion timetable and estimated fee will be submitted for applicant team or City approval.

3. METHOD OF PAYMENT

Upon submission of an invoice by Consultant, and upon approval of County's representative, County shall pay Consultant monthly in arrears for fees and expenses incurred the prior month, up to the maximum amount provided for on the Standard Contract. Each invoice must specify services rendered, date of service and the accrued charges.

**EXHIBIT C
GENERAL TERMS AND CONDITIONS**

1. CLOSING OUT

County will pay Consultant's final claim for payment providing Consultant has paid all financial obligations undertaken pursuant to this Contract. If Consultant has failed to pay all obligations outstanding, County will withhold from Consultant's final claim for payment the amount of such outstanding financial obligations owed by Consultant. Consultant is responsible for County's receipt of a final claim for payment 30 days after termination of this Contract.

2. TIME

Time is of the essence in all terms and conditions of this Contract, subject to the usual and customary standards of professional care.

3. TIME OF PERFORMANCE

Work will not begin, nor claims paid for services under this Contract until all Certificates of Insurance, business and professional licenses/certificates, IRS ID number, signed W-9 form, or other applicable licenses or certificates are on file with the County's Contract Manager.

4. TERMINATION

A. This Contract may be terminated by County or Consultant, at any time, with or without cause, upon 30 days written notice from one to the other, unless otherwise provided for in Exhibit D.

B. County may terminate this Contract immediately upon notice of Consultant's malfeasance.

C. Following termination, County will reimburse Consultant for all expenditures made in good faith that are unpaid at the time of termination not to exceed the maximum amount payable under this Contract unless Consultant is in default of the Contract.

5. SIGNATURE AUTHORITY

The parties executing this Contract certify that they have the proper authority to bind their respective entities to all terms and conditions set forth in this Contract.

6. REPRESENTATIONS AND WARRANTY

A. County relies upon Consultant's professional ability and training as a material inducement to enter into this Contract. Consultant represents that Consultant will perform the work according to generally accepted professional practices and standards and the requirements of applicable federal, state and local laws. County's acceptance of Consultant's work shall not constitute a waiver or release of Consultant from professional responsibility.

B. Consultant warrants that Consultant possesses current valid appropriate licensure, including, but not limited to, drivers license, professional license, certificate of tax-exempt status, or permits, required to perform the work under this Contract.

7. INSURANCE

A. Without limiting Consultant's obligation to indemnify County, Consultant must procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work under this Contract and the results of that work by Consultant, Consultant's agents, representatives, employees or subcontractors.

B. Minimum Scope of Insurance

Coverage must be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01).
- (2) Insurance Services Office Form Number CA 00 01 covering Automobile Liability, code 1 (any auto).
- (3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

C. Minimum Limits of Insurance

Consultant must maintain limits no less than:

- (1) General Liability: **\$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
(Including operations, products and completed operations.)
- (2) Automobile Liability: **\$1,000,000** per accident for bodily injury and property damage.
- (3) Workers' Compensation: As required by the State of California.
- (4) Employer's Liability: **\$1,000,000** per accident for bodily injury or disease.

D. If Consultant maintains higher limits than the minimums shown above, County is entitled to coverage for the higher limits maintained by Consultant.

E. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either:

- (1) The insurer will reduce or eliminate such deductibles or self-insured retentions with respect to County, its officers, officials, agents, employees and volunteers; or
- (2) Consultant must provide a financial guarantee satisfactory to County guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

F. Other Insurance Provisions

The general liability and automobile liability policies must contain, or be endorsed to contain, the following provisions:

(1) The County of Solano, its officers, officials, agents, employees, and volunteers must be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Consultant; and with respect to liability arising out of work or operations performed by or on behalf of Consultant including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage shall be provided in the form of an Additional Insured endorsement (CG 20 10 11 85 or equivalent) to Consultant's insurance policy, or as a separate owner's policy.

(2) For any claims related to work performed under this Contract, Consultant's insurance coverage must be primary insurance with respect to the County of Solano, its officers, officials,

agents, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, agents, employees, or volunteers is excess of Consultant's insurance and shall not contribute to it.

(3) Should any of the above described policies be cancelled prior to the policies' expiration date, Contractor agrees that notice of cancellation will be delivered in accordance with the policy provisions.

G. Waiver of Subrogation

(1) Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

(2) The Workers' Compensation policy must be endorsed with a waiver of subrogation in favor of County for all work performed by Consultant, its employees, agents and subcontractors.

H. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII unless otherwise acceptable to County.

I. Verification of Coverage

(1) Consultant must furnish County with original certificates and endorsements effecting coverage required by this Contract.

(2) The endorsements should be on forms provided by County or, if on other than County's forms, must conform to County's requirements and be acceptable to County.

(3) County must receive and approve all certificates and endorsements before work commences.

(4) However, failure to do so shall not operate as a waiver of these insurance requirements.

(5) County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

8. BEST EFFORTS

Consultant represents that Consultant will at all times faithfully, industriously and to the best of his/her/its ability, experience and talent, perform to County's reasonable satisfaction.

9. DEFAULT

A. If Consultant defaults in Consultant's performance, County shall promptly notify Consultant in writing. If Consultant fails to cure a default within 30 days after notification, unless otherwise specified in Exhibit D, or if the default requires more than 30 days to cure and Consultant fails to commence to cure the default within 30 days after notification, then Consultant's failure shall terminate this Contract.

B. If Consultant fails to cure default within the specified period of time, County may elect to cure the default and any expense incurred shall be payable by Consultant to County.

C. If County serves Consultant with a notice of default and Consultant fails to cure the default, Consultant waives any further notice of termination of this Contract.

D. If this Contract is terminated because of Consultant's default, County shall be entitled to recover from Consultant all damages allowed by law.

10. INDEMNIFICATION

A. Consultant will indemnify and hold harmless the County of Solano, its officers, employees, agents and elective and appointive boards from all claims, losses, damages, including property damages, personal injury, death and liability of every kind, to the extent caused by arising from Consultant's operations or from any persons directly or indirectly employed by, or acting as agent for,

Consultant, excepting the sole negligence or willful misconduct of the County of Solano. This indemnification shall extend to claims, losses, damages, injury and liability for injuries occurring after completion of Consultant's services, as well as during the progress of rendering such services.

B. Acceptance of insurance required by this Contract does not relieve Consultant from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by Consultant's operations regardless if any insurance is applicable or not.

C. Notwithstanding any clause or provision in this Contract or any other applicable Contract to the contrary, Consultant's only obligation with regard to indemnification shall be to indemnify and hold harmless (but not defend) the County of Solano, its officers, directors, employees and agents from and against those damages and costs (including reasonable attorneys fees and cost of defense) that the County of Solano is legally obligated to pay as a result of the death or bodily injury to any person or the destruction or damage to any property, to the extent caused by the negligent act, error or omission of the Consultant or anyone for whom the Consultant is legally responsible.

11. INDEPENDENT CONTRACTOR

A. Consultant is an independent contractor and not an agent, officer or employee of County. The parties mutually understand that this Contract is by and between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

B. Consultant shall have no claim against County for employee rights or benefits including, but not limited to, seniority, vacation time, vacation pay, sick leave, personal time off, overtime, medical, dental or hospital benefits, retirement benefits, Social Security, disability, Workers' Compensation, unemployment insurance benefits, civil service protection, disability retirement benefits, paid holidays or other paid leaves of absence.

C. Consultant is solely obligated to pay all applicable taxes, deductions and other obligations including, but not limited to, federal and state income taxes, withholding, Social Security, unemployment, disability insurance, Workers' Compensation and Medicare payments.

D. Consultant shall indemnify and hold County harmless from any liability which County may incur because of Consultant's failure to pay such obligations.

E. As an independent contractor, Consultant is not subject to the direction and control of County except as to the final result contracted for under this Contract. County may not require Consultant to change Consultant's manner of doing business, but may require redirection of efforts to fulfill this Contract.

F. Consultant may provide services to others during the same period Consultant provides service to County under this Contract.

G. Any third persons employed by Consultant shall be under Consultant's exclusive direction, supervision and control. Consultant shall determine all conditions of employment including hours, wages, working conditions, discipline, hiring and discharging or any other condition of employment.

H. As an independent contractor, Consultant shall indemnify and hold County harmless from any claims that may be made against County based on any contention by a third party that an employer-employee relationship exists under this Contract.

I. Consultant, with full knowledge and understanding of the foregoing, freely, knowingly, willingly and voluntarily waives the right to assert any claim to any right or benefit or term or condition of employment insofar as they may be related to or arise from compensation paid hereunder.

12. RESPONSIBILITIES OF CONSULTANT

A. The parties understand and agree that Consultant possesses the requisite skills necessary to perform the work under this Contract and County relies upon such skills. Consultant pledges to perform the work skillfully and professionally. County's acceptance of Consultant's work does not constitute a release of Consultant from professional responsibility.

B. Consultant verifies that Consultant has reviewed the scope of work to be performed under this Contract and agrees that in Consultant's professional judgment, the work can and shall be completed for costs within the maximum amount set forth in this Contract.

C. To fully comply with the terms and conditions of this Contract, Consultant shall:

- (1) Establish and maintain a system of accounts for budgeted funds that complies with generally accepted accounting principles for government agencies;
- (2) Document all costs by maintaining complete and accurate records of all financial transactions associated with this Contract, including, but not limited to, invoices and other official documentation that sufficiently support all charges under this Contract;
- (3) Submit monthly reimbursement claims for expenditures that directly benefit Solano County;
- (4) Be liable for repayment of any disallowed costs identified through quarterly reports, audits, monitoring or other sources; and
- (5) Retain financial, programmatic, client data and other service records for 3 years from the date of the end of the contract award or for 3 years from the date of termination, whichever is later.

13. COMPLIANCE WITH LAW

A. Consultant shall comply with all federal, state and local laws and regulations applicable to Consultant's performance, including, but not limited to, licensing, employment and purchasing practices, wages, hours and conditions of employment.

B. Consultant warrants that all Consultant claims for payment or reimbursement by County will comply with the applicable Office of Management and Budget Circulars, particularly with respect to 2 CFR Part 225 and 2 CFR Part 230, as currently enacted or as may be amended throughout the term of this Contract.

14. CONFIDENTIALITY

A. Consultant shall prevent unauthorized disclosure of names and other client-identifying information, except for statistical information not identifying a particular client.

B. Consultant shall not use client specific information for any purpose other than carrying out Consultant's obligations under this Contract.

C. Consultant shall promptly transmit to County all requests for disclosure of confidential information.

D. Except as otherwise permitted by this Contract or authorized by the client, Consultant shall not disclose any confidential information to anyone other than the State without prior written authorization from County.

E. For purposes of this section, identity shall include, but not be limited to, name, identifying number, symbol or other client identifying particulars, such as fingerprints, voice print or photograph. Client shall include individuals receiving services pursuant to this Contract.

15. CONFLICT OF INTEREST

A. Consultant warrants that Consultant and/or Consultant's employees and/or their immediate families and/or Board of Directors and/or officers have no interest, including, but not limited to, other projects or independent contracts, and shall not acquire any interest, direct or indirect, including separate contracts for the work to be performed hereunder, which conflicts with the rendering of services under this Contract. Consultant shall employ or retain no such person while rendering services under this

Contract. Services rendered by Consultant's associates or employees shall not relieve Consultant from personal responsibility under this clause.

B. Consultant has an affirmative duty to disclose to County in writing the name(s) of any person(s) who have an actual, potential or apparent conflict of interest.

16. DRUG FREE WORKPLACE

Consultant warrants that Consultant is knowledgeable of Government Code section 8350 et. seq., regarding a drug free workplace and shall abide by and implement its statutory requirements.

17. HEALTH AND SAFETY STANDARDS

Consultant shall abide by all health and safety standards set forth by the State of California and/or the County of Solano pursuant to the Injury and Illness Prevention Program. If applicable, Consultant must receive all health and safety information and training.

18. CHILD/ADULT ABUSE

If services pursuant to this Contract will be provided to children and/or elder adults, Consultant warrants that Consultant is knowledgeable of the Child Abuse and Neglect Reporting Act (Penal Code section 11164 et seq.) and the Elder Abuse and Dependent Adult Civil Protection Act (Welfare and Institutions Code section 15600 et seq.) requiring reporting of suspected abuse.

19. INSPECTION

Authorized representatives of County, the state and/or the federal government may inspect and/or audit Consultant's performance, place of business and/or records pertaining to this Contract.

20. NONDISCRIMINATION

A. In rendering services under this Contract, Consultant shall comply with all applicable federal, state and local laws, rules and regulations and shall not discriminate based on age, ancestry, color, gender, marital status, medical condition, national origin, physical or mental disability, race, religion, sexual orientation, or other protected status.

B. Further, Consultant shall not discriminate against its employees, which includes, but is not limited to, employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

21. SUBCONTRACTOR AND ASSIGNMENT

A. Services under this Contract are deemed to be personal services.

B. Consultant shall not subcontract any work under this Contract nor assign this Contract or monies due without the prior written consent of the County's Contract Manager, the County's applicable Department Head or his or her designee and the County Administrator subject to any required state or federal approval.

C. If County consents to the use of Subcontractors, Consultant shall require and verify that its subcontractors maintain insurance meeting all the requirements stated in Section 7 above.

D. Assignment by Consultant of any monies due shall not constitute an assignment of the Contract.

22. UNFORESEEN CIRCUMSTANCES

Consultant is not responsible for any delay caused by natural disaster, war, civil disturbance, labor dispute or other cause beyond Consultant's reasonable control, provided Consultant gives written notice to County of the cause of the delay within 10 days of the start of the delay.

23. OWNERSHIP OF DOCUMENTS

- A. County shall be the owner of and shall be entitled to possession of any computations, plans, correspondence or other pertinent data and information gathered by or computed by Consultant prior to termination of this Contract by County or upon completion of the work pursuant to this Contract.
- B. No material prepared in connection with the project shall be subject to copyright in the United States or in any other country.

24. NOTICE

- A. Any notice necessary to the performance of this Contract shall be given in writing by personal delivery or by prepaid first-class mail addressed as stated on the first page of this Contract.
- B. If notice is given by personal delivery, notice is effective as of the date of personal delivery. If notice is given by mail, notice is effective as of the day following the date of mailing or the date of delivery reflected upon a return receipt, whichever occurs first.

25. NONRENEWAL

Consultant acknowledges that there is no guarantee that County will renew Consultant's services under a new contract following expiration or termination of this Contract. Consultant waives all rights to notice of non-renewal of Consultant's services.

26. COUNTY'S OBLIGATION SUBJECT TO AVAILABILITY OF FUNDS

- A. The County's obligation under this Contract is subject to the availability of authorized funds. The County may terminate the Contract, or any part of the Contract 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 Contract, or any subsequent Amendment, the County may, upon written Notice to the Consultant, terminate this Contract in whole or in part.
- B. Payment shall not exceed the amount allowable for appropriation by the County Board of Supervisors. If the Contract is terminated for non-appropriation:
- i. The County will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and
 - ii. The Consultant shall be released from any obligation to provide further services pursuant to this Contract that are affected by the termination.
- C. 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. 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:
- (1) Cancel this Contract; or,
 - (2) Offer a contract amendment reflecting the reduced funding.

27. CHANGES AND AMENDMENTS

- A. County may request changes in Consultant's scope of services. Any mutually agreed upon changes, including any increase or decrease in the amount of Consultant's compensation, shall be effective when incorporated in written amendments to this Contract.
- B. The party desiring the revision shall request amendments to the terms and conditions of this Contract in writing. Any adjustment to this Contract shall be effective only upon the parties' mutual execution of an amendment in writing.
- C. No verbal agreements or conversations prior to execution of this Contract or requested Amendment shall affect or modify any of the terms or conditions of this Contract unless reduced to writing according to the applicable provisions of this Contract.

28. CHOICE OF LAW

The parties have executed and delivered this Contract in the County of Solano, State of California. The laws of the State of California shall govern the validity, enforceability or interpretation of this Contract. Solano County shall be the venue for any action or proceeding, in law or equity that may be brought in connection with this Contract.

29. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

Consultant 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 160-64) regarding the protection of health information obtained, created, or exchanged as a result of this Contract and shall abide by and implement its statutory requirements.

30. WAIVER

Any failure of a party to assert any right under this Contract shall not constitute a waiver or a termination of that right, under this Contract or any provision of this Contract.

31. CONFLICTS IN THE CONTRACT DOCUMENTS

The Contract documents are intended to be complementary and interpreted in harmony so as to avoid conflict. In the event of conflict in the Contract documents, the parties agree that the document providing the highest quality and level of service to the County shall supersede any inconsistent term in these documents.

32. FAITH BASED ORGANIZATIONS

A. Consultant agrees and acknowledges that County may make funds available for programs or services affiliated with religious organizations under the following conditions: (a) the funds are made available on an equal basis as for programs or services affiliated with non-religious organizations; (b) the program funded does not have the substantial effect of supporting religious activities; (c) the funding is indirect, remote, or incidental to the religious purpose of the organization; and (d) the organization complies with the terms and conditions of this resolution.

B. Consultant agrees and acknowledges that County may not make funds available for programs or services affiliated with a religious organization (a) that has denied or continues to deny access to services on the basis of race, color, religion, ancestry, national origin, sex, citizenship, or known disability; (b) will use the funds for a religious purpose; (c) will use the funds for a program or service that subjects its participants to religious education.

C. Consultant agrees and acknowledges that all recipients of funding from County must: (a) comply with all legal requirements and restrictions imposed upon government-funded activities set forth in Article IX, section 8 and Article XVI, section 5 of the California Constitution and in the First Amendment to the United States Constitution; and (b) segregate such funding from all funding used for religious purposes.

33. DISBARMENT OR SUSPENSION OF CONSULTANT

A. Consultant represents that its officers, directors and employees (i) are not currently excluded, debarred, or otherwise ineligible to participate in the federal health programs as defined in 42 USC § 1320a-7b(f) (the "Federal Healthcare Programs") or any state healthcare programs; (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs or any state healthcare programs, and (iii) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in Consultant being excluded from participation in the Federal Healthcare Programs or any state healthcare programs.

B. This representation shall be an ongoing representation and warranty during the term of this Contract and Consultant must immediately notify the County of any change in the status of the representations and warranty set forth in this section.

C. If services pursuant to this Contract involve healthcare programs, Consultant agrees to provide certification of non-suspension with submission of each invoice. Failure to submit certification with invoices will result in a delay in County processing of Consultant's payment.

34. EXECUTION IN COUNTERPARTS

This Contract may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute one instrument. Facsimile copies shall be deemed to be original copies.

35. LOCAL EMPLOYMENT POLICY

Solano County desires, whenever possible, to hire qualified local residents to work on County projects. A local resident is defined as a person who resides in, or a business that is located in, Solano County. The County encourages an active outreach program on the part of its contractors, consultants and agents. When local projects require subcontractors, Contractor shall solicit proposals for qualified local residents where possible.

36. ENTIRE CONTRACT

This Contract, including any exhibits referenced, constitutes the entire agreement between the parties and there are no inducements, promises, terms, conditions or obligations made or entered into by County or Consultant other than those contained.