

# Agenda



## County of Inyo Board of Supervisors

Board of Supervisors Room - County Administrative Center  
224 North Edwards  
Independence, California

**NOTICE TO THE PUBLIC:** This meeting is accessible to the public both in person and via Zoom webinar. Individual Board members may participate remotely in accordance with applicable open meeting law requirements. In-person meetings will be conducted in accordance with local and State Department of Public Health orders and guidance and requirements of the California Division of Occupational Safety and Health (CalOSHA).

The Zoom webinar is accessible to the public at <https://zoom.us/j/868254781>. The meeting may also be accessed by telephone at the following numbers: (669) 900-6833; (346) 248-7799; (253) 215-8782; (929) 205-6099; (301) 715-8592; (312) 626-6799. Webinar ID: 868 254 781.

Anyone unable to attend the Board meeting in person who wishes to make either a general public comment or a comment on a specific agenda item prior to the meeting, or as the item is being heard, may do so either in writing or by utilizing the Zoom "hand-raising" feature when appropriate during the meeting (the Chair will call on those who wish to speak). Generally, speakers are limited to three minutes. Written public comment, limited to **250 words or less**, may be emailed to the Assistant Clerk of the Board at [boardclerk@inyocounty.us](mailto:boardclerk@inyocounty.us). Your comments may or may not be read aloud, but all comments will be made a part of the record. Please make sure to submit a separate email for each item that you wish to comment upon.

**Public Notices:** (1) In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). (2) If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed less than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).

**Note:** Historically the Board does break for lunch; the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

### July 5, 2022 - 8:30 A.M.

1. **PUBLIC COMMENT ON CLOSED SESSION ITEM(S)** (Comments may be time-limited)

### CLOSED SESSION

2. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Pursuant to paragraph (1) of subdivision (d) of Government Code §54956.9** – Name of case: Inyo County v. Los Angeles Department of Water and Power, Kern County Superior Court Case Nos. BCV-18-101260-TSC, BCV-18-101261-TSC, and BCV-18-101262-TSC.

**OPEN SESSION** (With the exception of timed items, all open-session items may be considered at any time and in any order during the meeting in the Board's discretion.)

- 10 A.M.
3. **PLEDGE OF ALLEGIANCE**
  4. **REPORT ON CLOSED SESSION AS REQUIRED BY LAW**
  5. **PUBLIC COMMENT** (Comments may be time-limited)

6. **COUNTY DEPARTMENT REPORTS**

**CONSENT AGENDA** (Items that are considered routine and are approved in a single motion; approval recommended by the County Administrator)

7. **Board of Supervisors** - Request Board cancel the regular Board of Supervisors meeting scheduled for July 26, 2022.
8. **Clerk of the Board** - Request Board reappoint Ms. Suzanne Butler, Mr. Scott Marcellin, and Mr. Michael Holland to the Bishop Rural Fire Protection District Board of Commissioners. (*Notice of Vacancy resulted in requests for reappointment from Ms. Butler, Mr. Marcellin, and Mr. Holland.*)
9. **Clerk-Recorder** - Request Board approve payment to DFM Associates in an amount of \$15,720.00 for the annual DFM Associates software License Maintenance and Support Fee, contingent upon the Board's adoption of the 2022-2023 annual budget.
10. **Coroner** - Request Board ratify and approve prior year payment to Southern Inyo Hospital in the amount of \$16,526.15.
11. **County Administrator - Advertising County Resources** - Request Board ratify and approve Amendment No. 1 to the agreement between the County of Inyo and Chris Langley for provision of Film Commissioner services, extending the term to September 30, 2022 at a total amount not to exceed \$12,700, and authorize the Chairperson to sign.
12. **County Administrator - Personnel** - Request Board approve the contract between the County of Inyo and Atkinson, Andelson, Loya, Ruud & Romo for the provision of Legal Services-General Labor and Employment Advice, in the amount of \$320,000 for the term of July 1, 2022 through June 30, 2023, contingent upon the Board's adoption of the Fiscal Year 2022-2023 Budget, and authorize the Chairperson to sign the contract and HIPPA Business Associate Agreement, contingent upon all appropriate signatures being obtained.
13. **Health & Human Services - First 5** - Request Board approve the Memorandum of Understanding between the County of Inyo and Altrusa International Foundation of Eastern Sierra, Inc. of Bishop, CA for the provision of Dolly Parton Imagination Library program in an amount not to exceed \$4,538 for the period of July 5, 2022 through July 6, 2023, contingent upon the Board's approval of future budgets, and authorize the First 5 Director to sign, contingent upon all appropriate signatures being obtained.
14. **Health & Human Services - Health/Prevention** - Request Board ratify and approve the contract between the County of Inyo and Sabrina Enterprises, Inc., dba Dwayne's Friendly Pharmacy of Bishop, CA, for the provision of pharmaceutical services in an amount not to exceed \$650,000.00 for the period of July 1, 2022 through June 30, 2027, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

**DEPARTMENTAL** (To be considered at the Board's convenience)

15. **Treasurer-Tax Collector** - Request Board approve the contract between the County of Inyo and Carolynn Phillips for the provision of professional services as the Assistant Treasurer-Tax Collector at Range 84, Step C, \$8,012 per month, effective July 7, 2022, and authorize the County Administrator to sign, contingent upon all appropriate signatures being obtained.
16. **Water Department** - Request Board approve Amendment No. 1 to the "Agreement Between the County of Inyo and City of Los Angeles Department of Water and Power Concerning Operation and Funding of the Lower Owens River Project," and authorize the Chairperson to sign.
17. **Public Works** - Request Board: A) approve the modified job description for the Engineering Technician I/II; and B) change the Authorized Strength in the Public Works Department by deleting one (1) Planning Technician at Range 63 (\$4,184 - \$5,091) and adding one (1) Engineering Technician I at Range 61 (\$3,997 - \$4,885) or Engineering Technician II at Range 66 (\$4,489 - \$5,464); and C) reclass a current Lead Equipment Operator to the Engineering Technician I, step E, effective July 7, 2022.
18. **Clerk of the Board** - Request Board approve the minutes of the regular Board of Supervisors meeting of June 28, 2022.

**TIMED ITEMS** (Items will not be considered before scheduled time but may be considered any time after the scheduled time.)

- 10:30 A.M. 19. **County Counsel** - Request Board receive presentation regarding proposed updates to the Inyo County Purchasing Policy and provide direction to staff regarding the proposed updates.

**COMMENT** (Portion of the Agenda when the Board takes comment from the public and County staff)

20. **PUBLIC COMMENT** (*Comments may be time-limited*)

**BOARD MEMBERS AND STAFF REPORTS**



# County of Inyo

## Board of Supervisors

### CONSENT - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Assistant Clerk of the Board

**SUBJECT:** Cancellation of July 26 Board of Supervisors Meeting

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**RECOMMENDED ACTION:**

Request Board cancel the regular Board of Supervisors meeting scheduled for July 26, 2022.

**SUMMARY/JUSTIFICATION:**

Members of the Board who will be attending the National Association of Counties annual conference in Colorado later this month have noted that their travel arrangements conflict with the July 26 Board meeting, and have asked that it be cancelled.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could decide not to cancel the meeting, however there could be challenges putting together a quorum on that date.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

N/A

**ATTACHMENTS:**

**APPROVALS:**

Darcy Ellis  
Darcy Ellis  
John Vallejo  
Leslie Chapman

Created/Initiated - 6/28/2022  
Approved - 6/28/2022  
Approved - 6/28/2022  
Final Approval - 6/30/2022





# County of Inyo

## Clerk of the Board

### CONSENT - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Assistant Clerk of the Board

**SUBJECT:** Reappointments to Bishop Rural Fire Protection District Board of Commissioners

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**RECOMMENDED ACTION:**

Request Board reappoint Ms. Suzanne Butler, Mr. Scott Marcellin, and Mr. Michael Holland to the Bishop Rural Fire Protection District Board of Commissioners. (*Notice of Vacancy resulted in requests for reappointment from Ms. Butler, Mr. Marcellin, and Mr. Holland.*)

**SUMMARY/JUSTIFICATION:**

Your Board has appointing authority for the Bishop Rural Fire Protection District Board of Commissioners. Three terms were set to expire July 1 and the vacancies were publicly noticed in accordance with State law and Board policy. Three responses were received - from Ms. Suzanne Butler, Mr. Scott Marcellin, and Mr. Michael Holland all requesting reappointment.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board may choose to not make the appointments and direct staff to open a new recruitment period. This is not recommended, as the individuals requesting appointment are experienced fire commissioners and comprise the majority of the board.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

N/A

**ATTACHMENTS:**

1. Michael Holland Request for Reappointment 06.24.22
2. Scott Marcellin Request for Reappointment 06.24.22
3. Suzanne Butler Request for Reappointment 06.19.22

**APPROVALS:**

Darcy Ellis  
Darcy Ellis

Created/Initiated - 6/27/2022  
Final Approval - 6/27/2022

MICHAEL J. HOLLAND, CPA

KEVIN E. ALLRED, CPA

## *Holland & Allred*

*Certified Public Accountants*

324 GROVE STREET • BISHOP, CA 93514

Tele: (760) 873-3508 • Fax: (760) 873-3509

[hollandallred@verizon.net](mailto:hollandallred@verizon.net)

June 23, 2022

Inyo County Board of Supervisors  
PO Drawer N  
Independence, CA 93526

RECEIVED

JUN 24 2022

INYO County Administrator  
Clerk of the Board

4:31 p.m.  
*[Signature]*

Dear Members of the Board:

I hereby submit my letter of interest to be considered for reappointment to the Board of Commissioners of the Bishop Fire Protection District.

I have been serving as a member of the board since my appointment in January, 2009. I look forward to the opportunity to continue my service to the Bishop Fire Department in this role of managerial support.

I respectfully request your consideration for reappointment for an additional four year term to begin July 1, 2022.

Sincerely,



Michael J. Holland

Cc: [dellis@inyocounty.us](mailto:dellis@inyocounty.us)

06/24/2022

RECEIVED

JUN 24 2022

Inyo County Administrator  
Clerk of the Board

11:02 a.m.  
JZ

To the Inyo County Board of Supervisors


Regarding the posting of the Bishop Rural Fire District openings coming up on July 1<sup>st</sup>. I am currently a board member of the Bishop Rural Fire District and would like to remain on the board. We have a lot of projects we are moving forward with at this time, and I would like to see them through. I realize I am running for District 3 Supervisor, but that will have to be dealt with when or if I'm elected in November. I am currently on the Joint Powers Agreement Board and am asking to be appointed to the ADHOCK committee to work on the Joint Powers Authority Board. If I'm not elected, I want to stay and do my part as a commissioner. If I am elected, I want to do my part as a Inyo County Supervisor.

Thank you for your consideration.

Scott E Marcellin

## Darcy Ellis

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**From:** Sue Butler <sueslife47@gmail.com>  
**Sent:** Sunday, June 19, 2022 5:44 PM  
**To:** Darcy Ellis  
**Subject:** Fwd: BRFPD Board of Commissioners 

>>  
>> June 19, 2022  
>>  
>> Ms Darcy Ellis,  
>>  
>> My name is Suzanne Butler. I have served on the Bishop Rural Fire Protection District Board of Commissioners since my appointment on 10/9/2018. My term is up on 7/1/2022 and I am interested in continuing in my position if appointed by the Inyo County Board of Supervisors.  
>>  
>> I have learned a great deal during my term about the scope of the fire district responsibilities in Northern Inyo County. Chief Joe Dell has worked with the commission to budget and plan for the future as we have seen an increase in the number and types of fire responses. This has included working with current EMS systems to provide back up for the increasing number of calls when Symons Ambulance has not been available.  
>>  
>> While I did not have previous fire protection experience I have served on several volunteer boards in the area over the last 30 years. I was a nurse in Inyo County Public Health for 15 years prior to my retirement in 2011. In my capacity as a nurse manager for public health our department worked collaboratively with emergency services throughout Inyo County including with the various fire departments. I believe this experience has allowed me to contribute effectively on the commission.  
>>  
>> I appreciate the possible consideration to reappointment to this 4 year position.  
>>  
>> Sincerely,  
>>  
>> Suzanne Butler  
>> 2523 Sunrise Drive  
>> Bishop, California 93514  
>> 760 937-8178  
>> sueslife47@gmail.com



# County of Inyo



## Clerk-Recorder

### CONSENT - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Danielle Sexton

**SUBJECT:** Approval of annual payment to DFM for Software License Maintenance and Support Fee

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**RECOMMENDED ACTION:**

Request Board approve payment to DFM Associates in an amount of \$15,720.00 for the annual DFM Associates software License Maintenance and Support Fee, contingent upon the Board's adoption of the 2022-2023 annual budget.

**SUMMARY/JUSTIFICATION:**

On April 24, 2007 the Inyo County Board of Supervisors declared DFM Associates as the sole source provider for voter registration software and approved a contract between the County of Inyo and DFM Associates for use of their EMS voter registration system. Per the Board approved contract, the initial term of the lease was "Sixty (60) months from the installation of the EIMS and continuing thereafter until the next June 30th. The entire amount to fulfill the financial obligations under the initial lease terms of the contract was encumbered in the 2007-2008 fiscal year. Payments were made to DFM Associates monthly from July 1, 2007 to June 30, 2012.

According to Article 9 of the contract, "After the expiration of the initial term, this Agreement will automatically continue with respect to such Specified DFM Software or such Specified Consulting Services on a year to year basis, unless either party gives the other written notice..."

This request is to authorize an annual payment in the amount of \$15,720.00 to continue the lease with DFM Associates for the term of July 1, 2022 - June 30, 2023.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

On April 24, 2007, the Inyo County Board of Supervisors declared DFM Associates as the sole source provider for voter registration software and approved a contract between the County of Inyo and DFM Associates for use of their EMS voter registration system and has continued annually to approve DFM as a sole source provider.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The DFM software system is used to electronically manage voter registration and election administration in Inyo County. The Board can deny the approval of this payment, which would result in the discontinuation of the use of the EIMS Voter Registration and Elections Management System and the inability to electronically manage election related services as required by State and Federal law.

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

This annual payment will be made from the Elections Budget - General Operating Expenses (011000-5311), contingent upon the adoption of the 2022-2023 budget.

**ATTACHMENTS:**

1. DFM Annual Invoice 2022-2023
2. DFM Master Contract

**APPROVALS:**

|                 |                               |
|-----------------|-------------------------------|
| Danielle Sexton | Created/Initiated - 6/27/2022 |
| Darcy Ellis     | Approved - 6/27/2022          |
| Danielle Sexton | Approved - 6/28/2022          |
| John Vallejo    | Approved - 6/28/2022          |
| Amy Shepherd    | Final Approval - 6/28/2022    |



**DFM Associates**  
10 Chrysler, Suite A

949-859-8700  
949-859-9512 Fax #

# Invoice

|          |           |
|----------|-----------|
| Date     | Invoice # |
| 7/1/2022 | 47766     |

Bill To

County of Inyo  
Danielle Sexton, County-Clerk-Recorder  
P.O. Drawer F  
Independence, CA 93526

Ship To

| P.O. Number      |           | Terms  | Ship |              | S.O. No.    |
|------------------|-----------|--|------|--------------|-------------|
| Contract 4/27/07 |           | Net 30   |      |              |             |
| Quantity         | Item Code | Description  | U/M  | Price Each   | Amount      |
| 12               | CA - Inyo | EIMS Lease<br><br>Per increase letter dated April 1, 2022<br><br>Annual Invoice:<br>For the months of July 2022 - June 2023<br>Non Taxable Sales |      | 1,310.00     | 15,720.00   |
|                  |           |  |      | 0.00%        | 0.00        |
|                  |           |  |      | <b>Total</b> | \$15,720.00 |



**DFM ASSOCIATES**  
**MASTER AGREEMENT**  
**INYO COUNTY**

THIS MASTER AGREEMENT ("Agreement") is made and entered into as of April 24, 2007 by and between DFM ASSOCIATES, a California corporation ("DFM"), and THE COUNTY OF INYO, a political subdivision of the State of California ("County").

**RECITALS**

A. DFM is willing to do any or all of the following at the request of the County:

- (1) To purchase and resell Computer Hardware to the County;
- (2) To lease or license DFM Software to the County;
- (3) To lease or sublicense Third Party Software to the County; and/or
- (4) To provide Consulting Services to the County.

B. The purpose of this Agreement is to generally describe the various products and services DFM is willing to provide to the County if and when the County chooses to utilize them, and to establish the basic contractual terms and conditions under which those products and/or services will be provided, subject to additional terms and provisions set forth in a separate Addendum which will specify the product or service and the particular terms and provisions applicable thereto. The separate Addendum will become a part of this Agreement, if and when it has been signed on behalf of both the County and DFM. Neither DFM nor the County is obligated to the other regarding any of the products or services generally described herein unless and until, and then only to the extent that, the specific product or service is identified on a separate Addendum attached hereto and signed on behalf of both parties.

## TERMS AND CONDITIONS

NOW, THEREFORE, the parties hereto agree as follows:

### ARTICLE 1. DEFINITIONS

For purposes of this Agreement, the following terms shall have the following definitions, which incorporate by reference the standard definitions of the computer industry established by trade usage or custom to the extent such standard definitions do not contradict specific definitions set forth herein:

Addendum/Addenda refers to any addendum signed by the parties hereto at any time or from time to time referring to this Agreement which specifically identifies the product or service to be provided by DFM to the County and the price, payment terms and other applicable information related thereto.

Computer Hardware refers to any computer, whether a main frame, mini-computer, personal computer or file server, and related computer peripheral equipment and accessories.

Computer Hardware Vendor refers to the corporation or other entity which manufactures or supplies the Computer Hardware.

Consulting Services refers to any or all of the services which DFM is capable of and willing to provide to the County, including consultation with the County regarding its data processing and information systems.

DFM Software refers to and includes any or all software systems developed by DFM, which DFM is willing to provide to the County.

File Maintenance refers to the ability to update a database.

Initial Installation Fee refers to the fee to be paid by the County to DFM for the initial installation of any Specified DFM Software and/or any Specified Computer Hardware.

Lease Term refers to the term of the lease between the County and DFM regarding the County's right to use any DFM Software and/or to utilize any Consulting Services. The initial Lease Term will be set forth on the Addendum and will be extended automatically pursuant to the terms of this Agreement.

Exhibit "A"

On April 24, 2007 the Inyo County Board of Supervisors declared DFM Associates as the sole source provider for voter registration software and approved a contract between the County of Inyo and DFM Associates for use of their EMS voter registration system. Per the Board approved contract, the initial term of the lease was "Sixty (60) months from the installation of the EIMS and continuing thereafter until the next following June 30<sup>th</sup>."

According to the Article 9 of the contract, "After the expiration of the initial term, this Agreement will automatically continue with respect to such Specified DFM Software or such Specified Consulting Services on a year to year basis, unless either party gives the other written notice..." Sole-source is justified for this software for the following reasons:

1. A substantial amount of funds, time and energy has been invested in training to use the system. There would be a significant cost associated with training staff on a new system to perform a majority of functions within the Department.
2. DFM is one of only two voter registration systems certified for use with VoteCal – the California Statewide database, which we are currently in the process of fully implementing.
3. The current software system works well for the department, has excellent support and is well suited to our needs.

Manuals refers to any documents, reports, instructions or writings, and any annotations thereto, that explain or depict, generally or in detail, any aspect of any particular DFM Software, including but not limited to, all procedures and workings thereof, and the Manuals may be on any format, including hard copy, on disk or on CD-ROM or any other media.

Monthly Fee refers to the monthly charge by DFM to the County for the right of the County to use any Specified DFM Software or to utilize any Specified Consulting Service.

Programs refers to all programs, sets of instructions and statements to be used directly or indirectly on the Computer Hardware to facilitate, directly or indirectly, the use(s), maintenance or enhancement of any particular DFM Software.

Software Enhancement refers to the addition of a new DFM Software Subsystem or the revision of any existing Subsystem for any particular DFM Software.

Software Maintenance refers to the maintenance of the Programs and the resolution of any problems with respect to any Programs concerning internal coding and operation thereof. The term Software Maintenance is meant to include those modifications, additions and revisions of any particular DFM Software mandated by new legislative enactments.

Software Release refers to the most recent revision of any particular DFM Software.

Specified Consulting Service refers to any particular Consulting Service identified on an Addendum attached hereto and signed on behalf of the County and DFM.

Specified DFM Software refers to any particular DFM Software identified on an Addendum attached hereto and signed on behalf of the County and DFM.

Specified Operating System Software refers to the operating system software provided by a third party vendor for the Computer Hardware used by the County on which the Specified DFM Software will operate.

Subsystem refers to any portion of any particular DFM Software which is related to a specific functional area within the department of the County which is using the Specified DFM Software pursuant to this Agreement.

Third Party Software refers to any software, the rights of which are owned or held by an corporation or entity other than DFM.

**EIMS for Windows  
Hardware Configuration**

**Hardware Addendum**

| Part Number  | Description  | Quantity | Price        | Ext Price        |
|--|--|----------|--------------|------------------|
|  | <b>EIMS for Windows Data and Application Server</b>                            |          |              |                  |
| 231292608  | PowerEdge 860 Intel® Dual Core Xeon™ processor at 2.4GHz                       | 1        | 4,767.00     | 4,767.00         |
|  | Operating System: Windows 2003 Server, Standard Edition with 5 Client Licenses | 1        |              |                  |
|  | 2GB DDR2 533MHz (4X512MB), Single Ranked DIMMs                                 | 1        |              |                  |
|  | 2 x 160GB 7.2K RPM SATA HDD  | 1        |              |                  |
|  | No Floppy Drive  | 1        |              |                  |
|  | Dual On-Board NICs   | 1        |              |                  |
|  | 48X IDE CD-RW/DVD  | 1        |              |                  |
|  | 5 Additional CALs for Windows 2003 Server (Standard or Enterprise)             | 1        |              |                  |
|  | Electronic Documentation and OpenManage CD Kit                                 | 1        |              |                  |
|  | Basic Support  | 1        |              |                  |
|  | OG SQL Svr 2005 Std Ed   | 1        |              |                  |
|  | SQL Svr Media  | 1        |              |                  |
|  | OG SQL Svr 2006 CAL  | 10       |              |                  |
| MST-R19-00191  | Wdws Terminal Svr CAL 2k3 Eng OLP NL Loc                                       | 10       | 68.28        | 682.80           |
| WRPRC010   | Business Objects Crystal Reports V10 Standard                                  | 1        | 189.28       | 189.28           |
| 22001979   | Adobe Acrobat 8.0 Standard - Windows Edition                                   | 1        | 285.99       | 285.99           |
|  | <b>EIMS for Windows ScanStations</b>   |          |              |                  |
| bcpxdet  | OptiPlex 320 MiniTower Intel® Pentium® 4 Processor                             | 1        | 1,115.00     | 1,115.00         |
|  | USB Cable  | 1        | 8.12         | 8.12             |
| DFM-LTLc<br>PA03277  | Scanning Software License (LeadTools - Req'd)                                  | 1        | 800.00       | 800.00           |
|  | Fujitsu 4340C Scanner  | 1        | 3,499.99     | 3,499.99         |
|  | <b>EIMS for Windows Printers &amp; Barcode Readers</b>                         |          |              |                  |
| LZ310-WDP  | Worthington Laser Scanner (Barcode Reader)                                     | 3        | 599.00       | 1,797.00         |
|  | Dymo Labelwriter 400 Turbo USB   | 3        | 129.99       | 389.97           |
| <b>Total Hardware and 3rd Party (non-DFM) Software Costs</b>               |  |          |              | <b>13,312.93</b> |
| <b>Hardware Configuration, procurement &amp; Installation Fee (Note 3)</b> |  |          |              | <b>8,000.00</b>  |
| <b>Data Conversion/EIMS Software Installation/Training</b>                 |  |          |              | <b>20,000.00</b> |
| <b>Sales Tax</b>   |  |          | <b>7.75%</b> | <b>3,046.75</b>  |
| <b>Estimates Shipping (Allowance)</b>                                      |  |          |              | <b>500.00</b>    |
| <b>Grand Total</b>   |  |          |              | <b>42,859.68</b> |

Monthly Lease Fee 1000.00  
 Semaphore Corp ZP4 Address Standardization Software (Subscription) 1 800.00 Annual

**NOTES:**

- (1) Hardware costs are estimates based on current pricing
- (2) Network Hardware (hubs/switches/wiring) to be supplied by the county
- (3) This fee is not charged if the county purchases hardware direct and installs hardware

Third Party Software Vendor refers to any corporation or other entity which has authorized DFM as a reseller or grants DFM the right to use and/or sublicense its software or which licenses the County directly to use its software.

## ARTICLE 2. COMPUTER HARDWARE

All of the following provisions of this Article 2 shall apply to the purchase of any Computer Hardware by the County through DFM unless expressly modified or supplemented by the Computer Hardware Purchase Addendum.

2.1 Computer Hardware Purchase Addendum. DFM agrees to supply to the County the Computer Hardware identified on a Computer Hardware Purchase Addendum attached hereto. The County agrees to pay DFM, to the extent DFM is supplying the Computer Hardware, the purchase price therefore and to perform all other obligations required of it herein, all upon the terms and subject to the conditions set forth on the Computer Hardware Purchase Addendum.

2.2 Sales and Use Taxes. The County shall be responsible for paying, and shall pay, all sales and use taxes applicable to any items included as part of the Computer Hardware which is sold or resold to it by DFM. If the County advises DFM that no sales or use taxes are due or collectible, then the County shall indemnify, defend, protect and hold DFM harmless from and with respect to any claim related to the collection, payment or reporting of such sales or use taxes, including all penalties and interest thereon or as a result of the non-payment thereof or the failure to file any return required to be filed, and any attorneys' fees incurred by DFM in enforcing its indemnity rights hereunder or in defending any claim to collect or pay such sales or use taxes.

2.3 Delivery and Insurance. The County shall be responsible for paying, and shall pay, all insurance and delivery charges relative to the delivery of the Computer Hardware to its final location at the installation address. DFM agrees to set forth on the Computer Hardware Addendum the estimated cost of, or "not to exceed amounts" regarding, insurance and delivery charges payable by the County.

2.4 Security Interest. The County grants DFM a security interest in all items of the Computer Hardware identified on the Computer Hardware Purchase Addendum as collateral for the obligation of the County to pay DFM for the full purchase price therefore. The County agrees to sign, when and where appropriate, any financing statements (i.e., UCC-

Form W-9 (Rev. November 2005) Department of the Treasury Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Name (as shown on your income tax return) DFM ASSOCIATES
Business name, if different from above SAME
Check appropriate box: Individual Sole proprietor, Corporation, Partnership, Other
Address number, street, and apt. or suite no. 10 Chrysler
City, state, and ZIP code IRVINE, CA 92618
Taxpayer Identification Number (TIN)

Social security number
Employer Identification Number 91313641710132

Certification

Under penalties of perjury, I certify that:
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Sign Here Signature of U.S. person Date 4-19-07

Purpose of Form
A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.
U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:
1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.
In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.
Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.
For federal tax purposes, you are considered a person if you are:
• An individual who is a citizen or resident of the United States,
• A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
• Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.
Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.
The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:
• The U.S. owner of a disregarded entity and not the entity.



1 forms) and other documents as may be required to perfect the security interest of DFM in such collateral. DFM agrees to release its security interest in the collateral as soon as the purchase price therefore has been paid in full.

2.5 Risk of Loss. From and after the date upon which each item of hardware is delivered with inside delivery, to the installation address, the County shall assume all risk of loss and risk of damage with respect thereto.

2.6 Transfer of Warranties. DFM agrees to provide on the DFM Computer Hardware Addendum a statement regarding the duration of the warranty from the Third Party Computer Vendor with respect to each item of Computer Hardware for which there is a warranty of at least one (1) year or more. DFM agrees to transfer and assign to the County all warranties it receives or is entitled to from any Computer Hardware Vendor whose Computer Hardware has been resold by DFM to the County.

2.7 Site Preparation, Etc. The County shall be solely responsible for, and shall pay all costs associated with, preparation of the site where the Computer Hardware is to be delivered, including all alterations and installations required in order to comply with all installation, operating and site specifications of the Computer Hardware Vendor. DFM agrees to deliver to the County copies of the Computer Hardware Vendor's site specifications for any Computer Hardware ordered by the County pursuant to this Agreement. All site preparation shall be completed on or before the scheduled delivery date of the Computer Hardware.

2.8 Cancellations and/or Delays. If the County cancels or terminates its obligation to purchase any Computer Hardware for any reason, or if the County is unable to take delivery of any Computer Hardware on a timely basis, then, and in such event, the County shall be liable for and agrees to pay on behalf of DFM any cancellation charges, late charges, restocking charges, liquidated damages or any other costs or expenses which DFM incurs to the Computer Hardware Vendor as a result thereof. Nothing contained in this Section is intended to imply that the County has any right to cancel this Agreement except as otherwise expressly provided in this Agreement.

2.9 Installation of Computer Hardware. Unless otherwise stated on the computer Hardware Purchase Addendum or on any Consulting Services Addendum, the County shall be solely responsible for, and shall pay all costs associated with, the installation of the Computer Hardware and the installation of any Third Party Software and the integration and connection of the Computer Hardware with any other computer equipment and/or software owned, leased, licensed, sublicensed, used or operated by the County.



ARTICLE 3.  
RIGHT TO USE DFM SOFTWARE

All of the following provisions of this Article 3 shall apply to the lease of any Specified DFM Software by the County from DFM unless expressly modified or supplemented by the DFM Software Addendum.

3.1 DFM Software Addendum. DFM agrees to lease to the County, on a non-exclusive basis, the DFM Software identified on a DFM Software Addendum. The Specified DFM Software and all prices and payment terms with respect thereto shall be set forth on the DFM Software Addendum except to the extent any such provisions are covered by Article 3 or elsewhere in this Agreement. The County shall have no right to use any DFM Software unless and until the DFM Software Addendum has been signed on behalf of the County and DFM, and then, in such event, the County's rights are limited to the use and/or lease of the Specified DFM Software on the terms set forth herein and therein. The County's rights to use any Specified DFM Software are governed and restricted by the terms of this Agreement.

3.2 Installation of the Specified DFM Software. On or before the installation date set forth on the DFM Software Addendum, or as soon thereafter as is reasonably practicable, DFM shall install the DFM Software. The DFM Software shall be deemed to have been installed when the County is able to log into the EIMS and perform maintenance and look-up functions on its core databases.

3.3 Initial Installation Fee. The initial installation fee for any Specified DFM Software will be set forth on the DFM Software Addendum. The County agrees to pay the initial installation fee to DFM upon installation of the Specified DFM Software.

3.4 Monthly Fee. The initial Monthly Fee for the right to use any Specified DFM Software will be set forth on the DFM Software Addendum applicable thereto. As consideration for the non-exclusive right to use the Specified DFM Software, the County agrees to pay DFM the Monthly Fee within thirty (30) days after receipt of a correct invoice. Unless otherwise provided on the DFM Software Addendum, the Monthly Fee for the first full month of any Lease Term shall be paid at the time any Specified DFM Software has been installed. If any rental payment date falls on a day of the month other than the first day of such month, or if any rental payment is for a period which is shorter than one month, the rental for any fractional month shall accrue on a daily basis for the period from the date such payment is due to the end of such calendar month or to the end of the Lease Term at a rate per day which is equal to one-thirtieth (1/30) of the then current Monthly Fee. DFM reserves the right to increase the Monthly Fee, by an amount not to exceed seven percent (7%) per

annum, as of July 1st of each year of the Lease Term upon ninety (90) days prior written notice to the County.

3.5 Right to Use the Specified DFM Software. DFM grants to the County the nonexclusive right to lease and use the Specified DFM Software on the terms and subject to the conditions set forth in this Agreement. The County's right to use and lease any Specified DFM Software specifically excludes the right to sublicense, assign, sublease or otherwise transfer the Specified DFM Software and/or any of the County's rights hereunder or therein.

3.6 DFM Software Releases. DFM shall provide the County with all Software Releases for the Specified DFM Software within one hundred twenty (120) days after the new Software Release becomes generally available to other DFM customers. The cost of the Software Releases is included in the Monthly Fee. Installation of the DFM Software Releases will be coordinated by DFM and a designated representative of the County.

3.7 Authorized Maintenance. All Software Maintenance, Software Enhancements and Software Releases shall be provided and installed by employees or authorized agents of DFM.

3.8 Post Installation Services. DFM agrees to provide the County with post-installation services as follows:

(a) DFM agrees to provide maintenance of the Specified DFM Software to correct program errors and to use good faith reasonable efforts to correct compatibility problems among such Computer Hardware, Specified DFM Third Party Software and the Specified DFM Software, the cost of which is included in the Monthly Fee for such Specified DFM Software; and

(b) DFM agrees to provide Software Releases covering applicable legislative changes and enactment of new laws applicable to such Specified DFM Software, the cost of which is included in the Monthly Fee.

3.9 Training. DFM agrees to provide the County with the following training services with respect to any Specified DFM Software:

(a) DFM will establish, with the help of a designated representative of the County, which users will participate in training and on which subsystems.

(b) DFM will develop a training schedule with sufficient training to allow the department or agency of the County which will have primary responsibility for using the Specified DFM Software to operate it.

(c) DFM will conduct the actual training sessions, including "hands on" and formal classroom training, with the initial training to be on-site at the County's facilities.

User training costs for any Specified DFM Software are included in the Initial Installation Fee and the Monthly Fee. There are no additional costs for training. As subsystems of any Specified DFM Software are enhanced or changed to conform to new requirement, users will be provided training with respect thereto on an on-going basis. Training with respect to enhanced or changed subsystems can be on-site or regional, depending on the material and individual needs of the users.

3.10 Limitation on DFM's Obligations. Notwithstanding any other provision of this Agreement to the contrary, DFM has no duty or obligation to perform any Software Maintenance or to provide the County with any Software Enhancements or Releases, or to provide any training to the County with respect to any Specified DFM Software if the County fails or refuses to utilize the most current revision of the Specified Operating System Software required by DFM; provided, however, in any event, DFM shall give the County at least one-hundred twenty (120) days prior written notice of the need to upgrade or replace the version of the Specified Operating System Software which the County is then using, and DFM shall consult with the County's user group regarding the scheduling of such changes.

#### ARTICLE 4. CONSULTING SERVICES

DFM agrees to provide the County with any Specified Consulting Services which are identified on the Consulting Services Addendum, including, without limitation, enhancement and modification programming for the County to meet any unique requirements of the County, subject to availability of DFM technical personnel and agreement regarding a mutually acceptable hourly rate for DFM's technical personnel. All terms and pricing for the Specified Consulting Services, including the nature of the Specified Consulting Service, hourly rate(s) charged by DFM therefore, the payment terms and any other applicable terms and conditions related thereto, will be set forth on the Consulting Services Addendum.

#### ARTICLE 5. OBLIGATIONS AND RESPONSIBILITIES OF THE COUNTY

5.1 Access to Facilities. The County shall provide DFM and its employees and authorized agents access to the County's facilities, including the Computer Hardware, and shall provide them with adequate facilities (including a desk, work area and computer), to enable DFM to perform its obligations under this Agreement in an effective, efficient and professional manner. Access shall be provided during the County's usual business hours upon reasonable prior notice except in the case of an emergency when access shall be provided as soon as is reasonably practicable.

5.2 Commercial Access. The County shall limit the commercial access to or use of any Specified DFM Software without the prior written approval of DFM, which approval may be conditioned by DFM upon receipt of an acceptable sublicense agreement between the County and the proposed commercial user and the payment to DFM by the County of a reasonable additional license and/or use fee with respect thereto. The County's obligation to limit commercial access or use is expressly restricted to those situations in which the County has actual knowledge of such commercial access or use and the County is not expressly precluded or prohibited by law from enforcing the provisions of this Section 5.2. For purposes hereof, the term "commercial access" means any access to or use of any Specified DFM Software other than (i) by the County for its own internal use in order to fulfill its duties, or (ii) by any person for its non-commercial private use; and "non-commercial private use" means any use or access by such person who is physically present at any County premises for which no consideration is paid, charged or received by the County. It is contemplated that a business which sells or uses the County's Data (as that term is defined in Section 5.4 below) in a commercial enterprise, such as a title company, can be included in the exception described in clause (ii) above to the extent it is physically present at the County's facilities when it is accessing or using the Specified DFM Software to examine the County's Data and/or to update its own data base. The term "physically present" is meant in its literal sense and it is not intended to cover or include off-site access of any kind, including without limitation, off-site access using modems and other communications equipment.

5.3 Specified Operating System Software. The County shall be solely responsible for, and shall pay all costs and expenses associated with, the purchase or license of, and the installation and maintenance of, the appropriate version of the Specified Operating System Software required by DFM at any time or from time to time. The County acknowledges and understands that upgrading of Computer Hardware and of the Specified Operating System Software and any other applications software used in conjunction with the DFM Software will be required from time to time; provided, however, in any event, DFM shall give the County at least one-hundred twenty (120) days prior written notice of the need to upgrade or replace the version of the Specified Operating System Software which the

County is then using, and DFM shall consult with the County's user group regarding the scheduling of such changes.

5.4 Responsibility for the County's Data. At all times during the term of this Agreement, the County shall retain all ownership rights in the County's Data (as that term is defined below). In addition, notwithstanding any use by the County of any DFM Software in connection therewith, the County shall be solely responsible and accountable for the accuracy and completeness of, all data and information stored by it in any database in any format (hereafter referred to as the "County's Data"), and for any use, publication or other dissemination of the County's Data. If the County uses, publishes or otherwise disseminates, or otherwise allows any access to, any portion of the County's Data, whether before or after it has been manipulated by the DFM Software, and whether or not it is a commercial or non-commercial use, by doing so the County is representing to DFM that it has accepted, ratified and approved the accuracy and completeness of the County's Data and accepts full responsibility for it. The County hereby agrees to indemnify, defend, protect and hold DFM harmless from and against any claims, liabilities, judgments, costs and expenses, including reasonable attorneys' fees and costs, which DFM may incur or suffer arising out of the accuracy or inaccuracy of (which includes omissions to) the County's Data, including, without limitation, claims of any third party who accesses the County's Data using the DFM Software.

## ARTICLE 6. PROPRIETARY ASPECTS OF THE DFM SOFTWARE; CONFIDENTIALITY COVENANTS

6.1 Protection of Confidentiality of DFM Software. DFM has taken reasonable security measures to protect the secrecy and confidentiality of the DFM Software. All employees of DFM and other persons who have designed, developed or programmed all or any portion of the DFM Software, or any software included therein, or who otherwise have knowledge of or access thereto, have been adequately notified that the DFM Software is proprietary to DFM and is not to be divulged, used or exploited except as expressly authorized by DFM in writing.

6.2 Confidentiality Covenants of the County. The County acknowledges and agrees that the DFM Software, and all constituent parts thereof, is valuable only as long as it remains secret and confidential. Accordingly, the County agrees to take all steps reasonably necessary to protect and maintain the confidentiality of all DFM Software and to prevent it from entering the public domain or falling into the hands of others not bound by this Agreement. In furtherance hereof, the County agrees as follows:

(a) The County shall use its good faith reasonable efforts to restrict access to any Computer Hardware running or capable of accessing the DFM Software, and to the DFM Software itself, to prevent unauthorized personnel from acquiring significant or confidential information concerning the DFM Software.

(b) To the extent reasonably practicable, the County shall require all persons who will have access to any DFM Software, to sign on an annual basis a confidentiality agreement, in a form provided by DFM which is acceptable to the County.

(c) The County shall not duplicate or reproduce (except to the extent reasonably required to back-up the Specified DFM Software in the ordinary course of business), in any manner, any DFM Software, or any component or constituent parts thereof, and agrees not to disseminate, display or use any DFM Software, or any component or constituent parts thereof, of any information or material concerning any DFM Software, except as is reasonably necessary for the County to perform its functions using any Specified DFM Software and to comply with the terms of this Agreement.

(d) The County shall notify DFM immediately of any and all unauthorized disclosures, or any suspected unauthorized disclosures of any DFM Software.

**6.3 Binding Effect.** Notwithstanding the fact that certain employees, agents, contractors, subcontractors or licensees of the County are not parties to this Agreement, the terms and provisions of this Article 6 shall be binding upon the County and all of its officers, employees, agents, contractors, subcontractors and licensees.

**6.4 Discovery of Specified DFM Software by Legal Process.** If at any time, a party to any litigation involving the processes, function or departments of the County which uses any Specified DFM Software, seeks by way of litigation or legal process to discover information in any way related to any Specified DFM Software, or requires the production of any Specified DFM Software, or any component or constituent part thereof, the County shall promptly notify DFM of such matter as soon as the complaint, subpoena or discovery request has been served on the County or its lawyers, but in no event later than ten (10) days after service thereof. Prior to the time specified in the legal document, court order, subpoena or moving papers for the disclosure of information relating to, or the delivery of all or any portion of any Specified DFM Software, the County shall cooperate with DFM so as to maintain, to the maximum extent reasonably practicable and permitted by law, the confidentiality and secrecy of all Specified DFM Software and to request, if requested by DFM, a protective order of the court or legal forum to avoid further disclosure or divulgence of any matters relating to any Specified DFM Software and to assure the continued protection



of the confidentiality thereof. However, such action is to occur only in the event that DFM is unable to make timely intervention into said legal action or proceeding. DFM shall reimburse the County for all reasonable legal fees and expenses which it incurs resulting from actions it has taken pursuant to this Section.

## ARTICLE 7. WARRANTIES AND LIMITATIONS

7.1 Limited Warranty Specified DFM Software. DFM warrants, for the sole benefit of the County and no other person or entity, that the Specified DFM Software shall be capable of performing the core functions set forth on the DFM Software Addendum related thereto, subject to the limitations set forth in Section 7.2 below and on the Specified DFM Software Addendum. This is DFM's sole express warranty with respect to any Specified DFM Software. Any claim by the County against DFM for breach of its express warranty must be in writing and must be promptly delivered by the County to DFM. In the event of any breach of DFM's express warranty, the County's sole and exclusive remedy against DFM, and DFM's sole and exclusive liability to the County, shall be that DFM, at its sole cost and expense, shall exercise good faith (for all purposes of this Agreement, the term "good faith" shall have the same meaning as that term is defined and used in California Commercial Code Section 2103(1)(b)) reasonable efforts to provide adequate programming services to correct such inherent defect, as DFM and the County deem necessary or appropriate. Warranty service performed in accordance with this Section shall be performed during normal weekday business hours, excluding DFM holidays. With respect to any reported errors that result or will result in significant interruption of the County's productivity or down time ("Business Impacting Failures"), DFM shall use its best efforts to begin error correction procedures within twenty-four (24) hours after receipt of such report. With respect to any reported errors that do not constitute Business Impacting Failures, DFM shall use its good faith reasonable efforts to begin error correction procedures no later than seventy-two (72) hours after receipt of such report. DFM's sole and exclusive obligation under the foregoing warranty shall be to exercise its good faith reasonable efforts to implement appropriate error corrections in response to notices from the County of such errors. In the event DFM does not remedy the Business Impacting Failures within 30 days of notification by the County, County may terminate lease payments and cease utilizing software. The County may elect to continue lease payments and utilize a sixty-day transition period as conditioned in Article 10.4.

7.2 Warranty Limitations Specified DFM Software. Notwithstanding the warranty provisions set forth in Section 7.1 above, all of DFM's obligations with respect to such warranties shall be contingent upon the County's use of the Specified DFM Software in

accordance with this Agreement and in accordance with instructions provided by DFM from time to time, including those set forth in the Manuals, as the same may be amended, supplemented or modified from time to time. DFM shall have no warranty obligation:

(a) With respect to any portion of the Specified DFM Software which has been:

(i) Operated by the County or its employees, agents, contractors, subcontractors or licensees in a manner inconsistent with the requirements set forth in the Manuals or elsewhere, or that has been modified by any party other than DFM;

(ii) Damaged in any manner by any cause other than any act or omission of DFM;

(iii) Operated or maintained in environmental conditions outside the parameters designated by DFM in the Manuals or elsewhere;

(iv) Subjected to extreme power surges or electromagnetic field(s);

(v) Reinstalled without the prior written consent of DFM; or

(vi) Determined by DFM to have an error or defect, which fact is conveyed to the County together with supplemental instructions on how to avoid or circumvent the error or defect, and the County fails or refuses to follow the supplemental instructions.

(b) As a result of or in any way connected with any error or defect in the Specified Operating System Software and/or any application software provided by any Third Party Software Vendor; provided, however, in such event, DFM will use its good faith reasonable efforts to resolve the problem to the extent that a resolution is reasonably available by reprogramming the DFM Software;

(c) As a result of or in any way connected with the County's failure or refusal to use the Specified Operating System Software or to upgrade its Computer Hardware as requested by DFM; or

(d) As a result of or in any connected with any of the County's Data.

7.3 Disclaimer of Warranties Specified DFM Software. DFM DOES NOT REPRESENT OR WARRANT THAT THE SPECIFIED DFM SOFTWARE WILL BE FREE FROM ERRORS OR THAT ALL ERRORS IN ANY SPECIFIED DFM SOFTWARE WILL BE CORRECTED. THE WARRANTY STATED IN SECTION 7.1 IS THE SOLE AND EXCLUSIVE WARRANTY OFFERED BY DFM. THERE ARE NO OTHER WARRANTIES RESPECTING THE SPECIFIED DFM SOFTWARE,



EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF DESIGN, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF DFM HAS BEEN INFORMED OR IS OTHERWISE MADE AWARE OF SUCH PURPOSE. NO AGENT OF DFM IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF DFM SET FORTH IN THIS ARTICLE 7.

7.4 Limitation on Liability and Remedy Specified DFM Software. THE COUNTY ACKNOWLEDGES THE COMPLEXITY AND INTERRELATIONSHIPS OF EACH OF THE COMPONENT AND CONSTITUENT PARTS COMPRISING ANY SPECIFIED DFM SOFTWARE. THE COUNTY FURTHER ACKNOWLEDGES AND AGREES THAT THE MONTHLY FEE WHICH DFM IS CHARGING FOR ANY SPECIFIED DFM SOFTWARE DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION BY DFM OF THE RISK OF THE COUNTY'S INCIDENTAL OR CONSEQUENTIAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH THE COUNTY'S USE OF ANY SPECIFIED DFM SOFTWARE. ACCORDINGLY, THE COUNTY AGREES THAT DFM SHALL NOT BE RESPONSIBLE TO THE COUNTY, OR ANY DEPARTMENT, AGENCY OR SUBDIVISION THEREOF, FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE LICENSING, LEASING OR USE OF ANY SPECIFIED DFM SOFTWARE; PROVIDED HOWEVER THAT DFM SHALL BE RESPONSIBLE FOR SUCH INCIDENTAL (BUT NOT CONSEQUENTIAL) COSTS AND EXPENSES ARISING IN CONNECTION WITH ANY INFRINGEMENT OR ALLEGED INFRINGEMENT OF THIRD PARTY PROPRIETARY RIGHTS AS SET FORTH IN ARTICLE 8 BELOW.

7.5 Warranty and Limitations Computer Hardware. ALL ITEMS OF TANGIBLE PERSONAL PROPERTY, INCLUDING ANY COMPUTER HARDWARE WHICH ARE RESOLD BY DFM TO THE COUNTY, ARE SOLD "AS IS" AND "WITH ALL FAULTS"; PROVIDED, HOWEVER, DFM HEREBY ASSIGNS TO THE COUNTY ALL OF ITS RIGHTS UNDER ANY WARRANTIES IT RECEIVES FROM THE COMPUTER HARDWARE VENDOR. DFM MAKES NO REPRESENTATION OR WARRANTY AS TO THE TYPE, NATURE OR KIND OF WARRANTY, IF ANY, FROM THE COMPUTER HARDWARE VENDOR. EXCEPT AS SET FORTH IN THIS SECTION 7.5, THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR OBLIGATIONS OF DFM WITH RESPECT TO THE COMPUTER HARDWARE AND ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF DESIGN, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF DFM HAS BEEN INFORMED OR IS OTHERWISE MADE AWARE OF SUCH PURPOSE, ARE HEREBY EXPRESSLY EXCLUDED. NO AGENT OF DFM IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF DFM SET FORTH IN THIS ARTICLE 7. THE COUNTY FURTHER ACKNOWLEDGES AND AGREES THAT ANY MARK-UP OR COMMISSION WHICH DFM RECEIVES IN CONNECTION WITH THE SALE OF THE COMPUTER HARDWARE DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION BY DFM OF THE RISK OF THE COUNTY'S INCIDENTAL OR CONSEQUENTIAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH THE COUNTY'S USE OF THE COMPUTER HARDWARE. ACCORDINGLY, THE COUNTY AGREES THAT DFM SHALL NOT BE RESPONSIBLE TO THE COUNTY, OR ANY DEPARTMENT, AGENCY OR

SUBDIVISION THEREOF, FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE PURCHASE OR USE OF ANY COMPUTER HARDWARE.

## ARTICLE 8. HOLD HARMLESS \_ COPYRIGHTS, PATENTS AND LICENSES

8.1 Indemnification by DFM. DFM, at its own expense, shall indemnify, defend, protect and hold the County harmless against any claim which may be brought against the County or its officers, agents or employees, to the extent that it is based on a claim that the County's use of the Specified DFM Software pursuant to this Agreement, or any of its components or constituent parts leased or licensed hereunder, infringes any patent, copyright, license or trade secret of any third party, and in such event, DFM shall pay all of those costs and damages, including expenses and reasonable attorneys' fees, finally awarded against the County or any of its officers, agents or employees attributable to such claim. To the extent allowed by law, control of the defense, including all negotiations and discussions regarding compromise and settlement, shall be vested in DFM, but shall be with the advice and consent of the County. The obligations of DFM set forth in this Section are conditional upon compliance by the County with all of the provisions set forth in Sections 8.2 through 8.3 below.

8.2 Notice of Claims. The County covenants and agrees to provide DFM with written notice of any actual, threatened or potential infringement claim within thirty (30) days of notice thereof by or to the County.

8.3 Remedial Action. If, in the opinion of DFM, the Specified DFM Software or any of its components leased to the County is likely to or has become the subject of a claim of infringement of patents, copyrights, licenses or trade secrets of any third party, then, without diminishing DFM's obligations to satisfy the final award, DFM may, at its option and expense, either (i) obtain the right for the County to continue to use the Specified DFM Software and its components leased hereunder, or (ii) substitute for the allegedly infringing components other equally suitable components mutually satisfactory to the County and DFM.

## ARTICLE 9. TERM

The initial Lease Term for any Specified DFM Software or any Specified Consulting Service shall be set forth on the Addendum applicable thereto. After the expiration of the initial term, this Agreement shall automatically continue with respect to such Specified DFM

Software or such Specified Consulting Service on a year to year basis, unless either party gives the other written notice, at least ninety (90) days prior to the expiration of the term, of its decision not to renew the term hereof with respect to such Specified DFM Software or such Specified Consulting Service, in which case the term as it relates to such Specified Consulting Service and/or such Specified DFM Software shall terminate on the June 30th at the expiration of its term. Continuance of the term of this agreement may include a negotiated increase in the Monthly Fee.

## ARTICLE 10. RIGHT TO TERMINATE OR SUSPEND PERFORMANCE; BREACHES

10.1 Non-Appropriation of Funds. The continuation of this Agreement, as it relates to any Specified Consulting Service or to any Specified DFM Software after June 30th of the County's fiscal year, is subject to appropriation by the County's Board of Supervisors for the necessary funding hereof. In the event of non-appropriation of funds for the Monthly Fee, or any other consideration payable to DFM hereunder, this Agreement will automatically and immediately terminate on June 30th of the then-current County fiscal year end as to any Specified Consulting Service and the Specified DFM Software for which no appropriation was approved. However, in no event shall this Agreement be terminated, as provided in this Section, for the purpose of replacing any Specified Consulting Service and/or any Specified DFM Software. Any attempt by the County to replace any Specified Consulting Service and/or any Specified DFM Software prior to the expiration of the term set forth in the Addendum applicable thereto, shall be deemed to be a material breach by the County of this Agreement and the damages to which DFM will be entitled as a result thereof shall assume, for these purposes, that the County had fully appropriated all funds for the particular Consulting Service and/or the Specified DFM Software for the full term set forth in the Addenda related thereto. Any permissible termination of this Agreement pursuant to this Section shall not relieve the County of its obligations set forth in Article 6 above.

10.2 County Breaches. For purposes of this Agreement, the term "County Breach" or "County Breaches" means any one or more of the following events, acts or occurrences:

(a) Any breach by the County, or any of its officers, employees, agents, contractors, subcontractors or licensees, of any of the provisions of Article 6; provided, however, instead of terminating the Agreement, DFM, in its sole and absolute discretion, may give notice to the County of the breach, demanding adequate assurances from the County that it will protect the proprietary interest of DFM and remedy all prior breaches. In the event that the County fails to provide such adequate assurances and to remedy such

breaches within seventy-two (72) hours of receipt of the notice ("Suspense Period"), the Agreement will automatically terminate as if no demand for adequate assurances had been made. For purposes of this Section, the parties agree that the Suspense Period is reasonable based on the proprietary interest to be protected by DFM and the interest of the County to continue the right to use any Specified DFM Software.

(b) Any modification of any DFM Software which is accomplished or undertaken by the County, its employees, or its authorized agents subject to this Agreement other than DFM or its employees or authorized agents, shall give DFM the right to terminate the Agreement, or any portion thereof related to the Specified DFM Software which was subject to the unauthorized modification.

(c) Any breach by the County of any of its monetary obligations to DFM, in which event DFM shall have the right, at any time after thirty (30) days prior written notice, to suspend its performance under this Agreement and, if the County Breach continues for an additional thirty (30) days, then DFM may, at its option, terminate the Agreement, or any portion thereof related to the Specified Consulting Service or Specified DFM Software which was involved in such breach.

(d) Any material breach by the County of any of its other obligations under this Agreement (other than those obligations described in subparagraphs (a) through (c) above), which continues for a period of thirty (30) days after written notice thereof from DFM specifying the nature of the breach and the curative action, if any, which must be taken, in which event the provisions of Section 10.4 shall become applicable at the expiration of the thirty (30) day period if the breach has not been fully cured at that time.

Subject to the provisions of Section 10.4 below, the remedies in favor of DFM set forth in this Section 10.2 are not exclusive and DFM shall have the right to pursue any other remedy to which it may be entitled.

**10.3 Debilitating Event.** Any of the following events, which occurs with respect to DFM, shall be deemed to be a "Debilitating Event" and shall cause this Agreement to be modified immediately upon notice to the County of such Debilitating Event and shall cause the Agreement to terminate automatically two hundred forty (240) days thereafter:

(a) Any assignment by DFM for the benefit of its creditors; or the entry of a court order appointing a receiver or trustee for all or substantially all of DFM's assets or properties, which order shall not be vacated, set aside or stayed within sixty (60) days from the day of entry of said court order; or the filing by DFM of a petition in bankruptcy or the

commencement of any similar proceeding under any law for the relief of debtors by or against DFM; or

(b) Any permanent cessation by DFM of its business, which is not succeeded to by a successor in interest; or

(c) Any voluntary termination or dissolution of DFM pursuant to which the rights of DFM under this Agreement have not been transferred to a successor in interest.

10.4 Transition Period. For purposes of this Agreement, the term "Transition Period" shall mean the sixty (60) day period immediately following the occurrence of a County Breach other than a County Breach related to the payment of money to DFM, or two hundred forty (240) days following the occurrence of a Debilitating Event, whichever is applicable. This Agreement shall continue, and all obligations of the parties hereunder shall remain, in full force and effect during the Transition Period subject only to legal impairments on the ability of DFM to perform if the Transition Period arises as a result of a Debilitating Event. Provided, however, in no event shall the Transition Period extend beyond the expiration of the term of this Agreement. The obligations of the County set forth in this Agreement shall continue, to the extent applicable, notwithstanding the termination of this Agreement.

10.5 Obligations of the County At Expiration of Transition Period.

(a) Immediately upon the termination of this Agreement, the County shall return to DFM any and all tangible manifestations of any DFM Software previously delivered by DFM to the County, and any copies, duplicates or reproductions thereof, whether authorized or not.

(b) In the event of the occurrence of a Debilitating Event, the County shall be permitted to continue to use any Specified DFM Software during the Transition Period; provided, however, DFM will not provide any Software Maintenance, Software Enhancements or Software Releases during such period of time; and, provided, further, the obligation of the County to pay the Monthly Fee shall be reduced to an amount equal to eighty percent (80%) of the applicable Monthly Fee which would otherwise be applicable during such period.

10.6 Option to Purchase the Specified DFM Software. In the event of the termination of this Agreement as related to any Specified DFM Software, where such termination is as the result of a Debilitating Event, but only in such event, the County shall have the right and option to purchase the copy of the Specified DFM Software (including a

copy of the source code) which it has installed on its Computer Hardware ("Software Purchase Option") on the terms and subject to the conditions set forth in this Section:

(a) In order to exercise its option pursuant to this Section, the County must deliver to DFM written notice ("Option Notice") of its intent to exercise the Software Purchase Option, specifying the Specified DFM Software which it desires to purchase, and it must deliver the Option Notice to DFM prior to the expiration of the Transition Period.

(b) The Purchase Price (as that term is defined below) is payable in cash in full not later than thirty (30) days after receipt by DFM of the Option Notice.

(c) The Purchase Price shall be equal to sixty (60) times the then applicable Monthly Fee for the Specified DFM Software which is the subject of the Software Purchase Option if the termination is during the first year after the commencement of the initial term of this Agreement as it is related to such Specified DFM Software, forty-eight (48) times the then applicable Monthly Fee if the termination is during the second year of the initial term, and thirty-six (36) times the then applicable Monthly Fee if the termination is at any other time.

(d) The Software Purchase Option is personal to the County and may not be sold or assigned. Strict compliance by the County with all of the provisions of this Section is required. Failure to strictly comply with the time frames shall cause the Software Purchase Option to terminate.

#### ARTICLE 11. NO JOINT VENTURE

Nothing contained in this Agreement, or in any Addenda, shall be deemed or construed as creating a joint venture or partnership between the parties. Except as expressly set forth herein, no party by virtue of this Agreement or any Addenda is authorized as an agent, employee or legal representative of any other party, and the relationship of the parties is, and at all times will continue to be, that of independent contractors.

#### ARTICLE 12. INJUNCTIVE RELIEF

Notwithstanding any provision of this Agreement or of any Addenda to the contrary, either party shall have the right to seek and obtain injunctive relief against the other party

from any judicial or administrative authority having jurisdiction, including any municipal or superior court of the State of California or any federal district court.

**ARTICLE 13.  
MISCELLANEOUS PROVISIONS**

13.1 Permits and Licenses. DFM and all of its employees and agents shall secure and maintain in force such license and permits as are required of DFM by law in connection the furnishing of equipment, materials or services necessary for DFM's performance under this Agreement.

13.2 Notices. All notices, requests, demands and other communications required or contemplated hereunder shall be in writing, shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed to have been given upon the earlier of (a) the date of personal delivery to the person to receive such notice at the address indicated below or (b) if mailed to the person to receive such notice at the address indicated below, four (4) business days after the date of posting by the United States Post Office as evidenced by the execution of the return receipt. The parties addresses, for all purposes hereof, are as follows:

If to DFM:                    DFM Associates  
   10 Chrysler  
   Irvine, California 92618  
   Attn: Thomas G. Diebolt, President

If to the County:                    \_\_\_\_\_  
   \_\_\_\_\_  
   \_\_\_\_\_  
   \_\_\_\_\_

Notice of change of address shall be given by written notice but shall not be deemed effective until it has been given in the manner detailed in this Section.

13.3 Not used.

13.4 Not used.

13.5 Assignment. The County and DFM shall not be entitled to assign this Agreement or any of its rights or interest in this Agreement, including any rights or interests

in any Addenda. This Agreement contemplates a license between DFM and the County without any right to license, sublicense, assign or sublease. Except as provided herein, this Agreement shall be binding upon the parties hereto and their respective successors and assigns.

13.6 Captions. The captions of the sections and subsections of this Agreement are included for reference purposes only and are not intended to be a part of this Agreement or in any way to define, limit or describe the scope or intent of the particular provision to which they refer.

13.7 Gender; Singular and Plural Number. The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes a corporation, partnership or other legal entity when the context so requires. Also, the singular shall include the plural number where the context so requires and visa versa.

13.8 Interpretation. The parties hereto acknowledge and agree that each has been given the opportunity to independently review this Agreement with legal counsel, and has the requisite experience and sophistication to understand, interpret and agree to the particular language of the provisions hereof. In the event of any ambiguity in or dispute regarding the interpretation of this Agreement, or any provision hereof, the interpretation of this Agreement shall not be resolved by any rule providing for interpretation against the party who causes the uncertainty to exist or against the party who is the draftsman of this Agreement.

13.9 Partial Invalidity and Severability. If any provision of this Agreement shall be held or deemed to be, or shall, in fact, be inoperative or unenforceable as applied in any particular case because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever; provided, however, if any provision of this Agreement relating to the payment of monies to DFM or any provision of Articles 6, 7, 11 or 13 is found to be inoperative or unenforceable for any reason, then in such event, such provision shall not be severed from or read out of this Agreement. The invalidity of any one or more phrases, sentences, clauses, sections or subsections of this Agreement shall not affect the remaining portions thereof except as provided in the preceding sentence.



13.10 Further Assurances. Each party agrees to cooperate fully with the other party and to execute such further instruments, documents and agreements, and to give such further written assurances as may be reasonably requested by the other party, to better evidence and reflect the transactions described in and contemplated by this Agreement, and to carry into effect the intents and purposes of this Agreement.

13.11 No Implied Waivers. The failure of either party at any time or from time to time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at any later time nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of such provision.

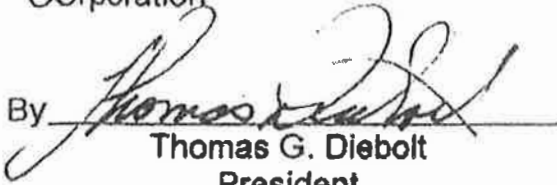
13.12 Applicable Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the internal laws, and not the laws pertaining to conflicts or choice of laws, of the State of California applicable to agreements made and to be performed wholly within the State of California.

13.13 Counterparts. This Agreement and any Addenda may be executed simultaneously in one or more counterparts, each of which together shall constitute one and the same instrument.

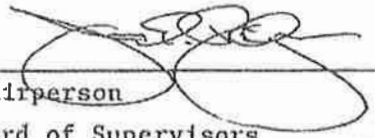
13.14 Entire Agreement; Amendment. This Agreement and all Addenda incorporated herein, and all other agreements, documents or writings required to be delivered in connection herewith, contain the entire understanding between the parties hereto with respect to the subject matter hereof and supersede any and all prior or contemporaneous written or oral negotiations and agreements between them regarding the subject matter hereof. No addition, modification or amendment of or to any term or provision of this Agreement, or to this Agreement as a whole, shall be effective unless set forth in writing and signed by all of the parties hereto.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above mentioned.

DFM ASSOCIATES, a California Corporation

By   
Thomas G. Diebolt  
President

COUNTY OF INYO, a political subdivision of the State of California

By   
Chairperson  
Its Board of Supervisors

## EIMS™ for Windows SOFTWARE ADDENDUM

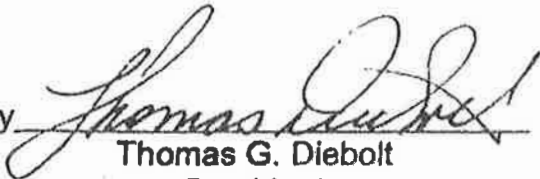
WHEN SIGNED ON BEHALF OF THE COUNTY AND DFM  
THIS ADDENDUM SHALL BECOME A PART OF THAT  
CERTAIN MASTER AGREEMENT, DATED AS OF \_\_\_\_\_, 2007  
("MASTER AGREEMENT")

EIMS™ is an acronym for Election Information Management System and means the computer software designed by DFM for use in the various processes used to register and manage voters, election officials and polling places as well as the election process itself. EIMS™ includes the EIMS™ Software, the EIMS™ Subsystems, any EIMS™ Enhancement and any EIMS™ Software Releases. EIMS™ is proprietary to DFM and reference is made to Article 6 of the Agreement.


- 10 Core Function: The core function of the EIMS™ is to gather and maintain data for use in the process of registering voters and the processing of elections. The ability of the EIMS™ to perform the core functions is dependent upon, among other things, all of the following: (1) accuracy and completeness of the County's Data; and (2) continual verification by the County of the accuracy and completeness of the County's Data.
- 20 Description of EIMS™: EIMS™ is more particularly described on Exhibit A attached hereto and incorporated herein by this reference.
- 30 Installation: The DFM Software shall be deemed to have been installed when the County is able to perform daily routine maintenance of the Voter File, the Precinct District File and the Street Guide.
- 40 Initial Installation and Data Conversion Fee : \$20,000.
- 41 LeadTools Image License: \$600.
- 50 Initial Monthly Fee: \$1000.00.
- 60 Initial Lease Term: Sixty (60) months from the installation of the EIMS™ and continuing thereafter until the next following June 30th (subject to extension as provided in Article 9 of the Master Agreement).

70 Incorporation of Master Agreement. The provisions of the Master Agreement, including, without limitation, Article 3, are incorporated herein by this reference as if set forth in full.

DFM ASSOCIATES, a California Corporation

By   
Thomas G. Diebolt  
President

COUNTY OF INYO, a political subdivision of the State of California

By   
Chairperson  
Its Board of Supervisors

## EXHIBIT A

EIMS® for Windows includes the following functional Modules:

### Precinct/District

Create and maintain precincts, districts and the relationship between those entities.

### Street Guide

Create and maintain street segments and their relationship to precincts.

### Office/Incumbent

Create and maintain office types, office definitions, and incumbent data.

### Voters

Create and maintain voter registration records. Allows for maintaining active, canceled and inactive voter records. Provides duplicate checking, customer tape generation, and other reporting features.

### Affidavit Tracking

Maintains records of affidavits provided to third parties and tracks those subsequently returned.

### Officers/Polling Places

Maintain records of polling places, election officers and election night workers.  
Maintain history.

### Election Workspace

Manage Election definitions including contests, candidates and measures. Provides Ballot typing, consolidation, election officer and polling place management for the election. Produce election related mailings and reports. Manage Absentee/Mailed ballot voters.

**Petition Checking**

Manage petition information, define new petitions, select random sample, provides system directed signature checking.

**Resources**

Manage county specific information and options.

Form **W-9**  
Rev. November 2005  
Department of the Treasury  
Internal Revenue Service

### Request for Taxpayer Identification Number and Certification

Give form to the  
requester. Do not  
send to the IRS.

Name (as shown on your income tax return)  
**DFM ASSOCIATES**

Business Name, if different from above:  
**SAME**

Check appropriate box:  Individual/Sole proprietor  Corporation  Partnership  Other  Exempt from backup withholding

Address (number, street, and apt. or suite no.)  
**10 Chrysler**

City, state, and ZIP code  
**IRVINE, CA 92618**

Requester's name and address (optional)

List account number(s) here (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number  
| | | | | | | | | |  
or  
Employer identification number  
**9134361417101312**

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here:  Signature of U.S. person

Date: **4-19-07**

**Purpose of Form**

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding.
- Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity.

## INYO COUNTY VOTER REGISTRATION SYSTEM DATABASE PROJECT STATEMENT OF WORK

The specific objective for DFM and Inyo County is to replace the current software application currently in use in Inyo County with the software from DFM Associates.

The project will be in full production by June 30, 2007. DFM will assist Inyo County with the following high-level functional components:

- Initial rollout of the computer hardware and software infrastructure deliverable to the Inyo County Clerk's Office.
- Installation of the DFM software application onto the hardware.
- Data conversion of existing Inyo County Voter Registration data into the new database architecture of the DFM application. This consists of both data and images (of scanned documents or signatures if any).
- Training of Inyo County staff in the use of the new software.

### **Deliverables (Inyo County)**

Inyo County is responsible for the following deliverables and will work in conjunction with DFM on feedback where appropriate:

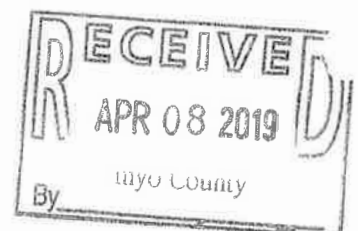
- Inyo County will ensure that the appropriate staff and resources are assigned and available to the project. These include, but are not limited to, elections personnel, technical support specialist, network administrators, and management as needed.
- Inyo County will ensure that the data that is provided to the Contractor is sufficient for conversion needs.
- Inyo County will be responsible for the installation of network infrastructure.
- Inyo County will be responsible for providing an appropriate location for the hardware and appropriate power/network connections and access.
- Inyo County will be responsible for receiving the hardware inspecting the shipment and documenting any damaged containers along with the shipping company's agent/driver.
- Inyo County will be responsible for all equipment storage in a safe and secure location until DFM Associates personnel arrive on-site to install the hardware
- Inyo County will be responsible for forwarding copies of the packing lists of each shipment as they arrive to DFM.

### **Deliverables (DFM)**

DFM is responsible for the following deliverables and will work in conjunction with Inyo County on input and feedback where appropriate:



- DFM will be responsible for mitigating risk.
- DFM will be responsible for data conversion from the current system.
- DFM will be responsible for installing the server hardware in county specified location.
- DFM will be responsible for server and application software installation onto hardware.
- DFM will be responsible for ensuring all scanners and printers work with the installed application.
- DFM will be responsible for integration testing including installation of the application on a new set of hardware, functional testing.
- DFM will be responsible for the providing training to elections personnel.





# County of Inyo



## Coroner

### CONSENT - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Denelle Carrington

**SUBJECT:** Approval of payment to Southern Inyo Hospital

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**RECOMMENDED ACTION:**

Request Board ratify and approve prior year payment to Southern Inyo Hospital in the amount of \$16,526.15.

**SUMMARY/JUSTIFICATION:**

This invoice was received in the Administrative Office on June 24, 2022. Since the amount is over the \$10,000 and needed Board approval this was the soonest that it could get onto an agenda.

The services provided for this invoice for the Coroner are required under his purview and the invoice needs to be processed and paid.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose to not approve payment, however, this is not recommended as the services were required and need to be paid for.

**OTHER AGENCY INVOLVEMENT:**

None

**FINANCING:**

There is sufficient funding in the Coroner Budget (023500) in Professional Services (5265).

**ATTACHMENTS:**

1. SIH Invoice

**APPROVALS:**

Denelle Carrington  
Darcy Ellis  
Denelle Carrington

Created/Initiated - 6/24/2022  
Approved - 6/24/2022  
Approved - 6/24/2022

Amy Shepherd

Final Approval - 6/27/2022

SOUTHERN INYO HOSPITAL  
501 E LOCUST  
LONE PINE CA 935451009  
7608765501

SOUTHERN INYO HOSPITAL  
PO BOX 1009  
LONE PINE CA 935451009

10352900053580  
0851  
5 FED TAX NO 95-6005450  
STATEMENT COVERS PERIOD FROM 051722 THROUGH 051722

8 PATIENT NAME [REDACTED] 9 PATIENT ADDRESS INYO COUNTY CORONEL  
b INDEPENDENCE c CA d 93526

10 BIRTHDATE [REDACTED] 11 SEX M 12 DATE 3 1 01  
13 HR 14 TYPE 15 SRC 16 DHR 17 STAT 18 19 20 21 22 23 24 25 26 27 28 29 ADMIT STATE

31 OCCURRENCE CODE 32 OCCURRENCE DATE 33 OCCURRENCE CODE 34 OCCURRENCE DATE 35 OCCURRENCE SPAN FROM THROUGH 36 OCCURRENCE SPAN FROM THROUGH 37  
39 VALUE CODES AMOUNT 40 VALUE CODES AMOUNT 41 VALUE CODES AMOUNT

*Handwritten:* 6/21/2022

| 42 REV. CD | 43 DESCRIPTION | 44 HCPCS / RATE / HIPPS CODE | 45 SERV. DATE | 46 SERV UNITS | 47 TOTAL CHARGES | 48 NON COVERED CHARGES | 49 |
|------------|----------------|------------------------------|---------------|---------------|------------------|------------------------|----|
| 0351       | CT SCAN/HEAD   | 70450                        | 051722        | 1             | 2573 35          |                        |    |
| 0972       | PRO FEE/RAD/DX | 70450 26                     | 051722        | 1             | 643 34           |                        |    |
| 0350       | CT SCAN        | 72125                        | 051722        | 1             | 3063 41          |                        |    |
| 0972       | PRO FEE/RAD/DX | 72125 26                     | 051722        | 1             | 765 85           |                        |    |
| 0352       | CT SCAN/BODY   | 71250                        | 051722        | 1             | 2757 39          |                        |    |
| 0972       | PRO FEE/RAD/DX | 71250 26                     | 051722        | 1             | 689 35           |                        |    |
| 0350       | CT SCAN        | 74176                        | 051722        | 1             | 4826 77          |                        |    |
| 0972       | PRO FEE/RAD/DX | 74176 26                     | 051722        | 1             | 1206 69          |                        |    |

0001 PAGE 001 OF 001 CREATION DATE 053122 TOTALS 16526 15

50 PAYER NAME COUNTY OF INYO CORONERS 51 HEALTH PLAN ID 52 INFO 53 ADD BEN 54 PRIOR PAYMENTS Y Y 55 EST. AMOUNT DUE 56 NPI 1831128602 57 OTHER PRV ID

58 INSURED'S NAME [REDACTED] 59 RPEL 60 INSURED'S UNIQUE ID 18 220531 61 GROUP NAME 62 INSURANCE GROUP NO

63 TREATMENT AUTHORIZATION CODES R930 R9389 Z0289 64 DOCUMENT CONTROL NUMBER 65 EMPLOYER NAME

69 ADMIT DX 70 PATIENT REASON DX R930 71 IPCS CODE 72 EC 73  
74 PRINCIPAL PROCEDURE CODE DATE 75 OTHER PROCEDURE CODE DATE 76 ATTENDING NPI 1831128602 77 OPERATING NPI 78 OTHER NPI 79 OTHER NPI  
74 OTHER PROCEDURE CODE DATE 75 OTHER PROCEDURE CODE DATE 76 ATTENDING NPI 1831128602 77 OPERATING NPI 78 OTHER NPI 79 OTHER NPI

80 REMARKS COUNTY OF INYO CORONERS P O BOX 1175 BISHOP CA 935141175  
81 OCC a b c d 82 LAST FIRST 83 LAST FIRST 84 LAST FIRST



# County of Inyo



## County Administrator - Advertising County Resources

### CONSENT - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Leslie Chapman

**SUBJECT:** Film Commissioner Contract Amendment 1

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**RECOMMENDED ACTION:**

Request Board ratify and approve Amendment No. 1 to the agreement between the County of Inyo and Chris Langley for provision of Film Commissioner services, extending the term to September 30, 2022 at a total amount not to exceed \$12,700, and authorize the Chairperson to sign.

**SUMMARY/JUSTIFICATION:**

Film Commissioner Chris Langley has served as Inyo County's Film Commissioner since 2007, most often as a sole-source provider and also as the successful respondent to a Request for Proposals (RFPs) issued in 2013. It has become practice to revisit every 4-6 years whether to issue RFPs or continue sole-source contracting. The Board declined to have staff prepare and issue an RFP for Film Commissioner services in 2018, and instead approved a three-year sole-source contract with Mr. Langley.

Mr. Langley's FY 21-22 contract expired June 30. It was approved on May 25, 2021 after discussion among the Board about reexamining the Film Commissioner position - a discussion prompted by members of the Board expressing interest in a one-year contract for FY 21-22 instead of the new three-year contract.

As such, your staff prepared a new RFP for Film Commissioner services, which it hopes to release this week. Proposals are due in mid-August. To ensure continuity in service until a proposal is selected and a new contract awarded, staff has prepared an amendment to extend the term of Mr. Langley's contract through September 30.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board may choose not to approve the contract extension, or could extend the term even longer. The former option is not recommended, as the County should avoid an interruption in service. Your Board could also direct staff to not issue an RFP and enter another year-long contract with Mr. Langley.

**OTHER AGENCY INVOLVEMENT:**

Clerk of the Board, County Counsel

**FINANCING:**

Funding for this contract amendment is available in the Advertising County Resources budget (011400), Object Code 5535.

**ATTACHMENTS:**

1. Chris Langley Contract Amendment 1
2. FY 21-22 Film Commissioner Contract
3. FY 18-19 through FY 20-21 Film Commissioner Contract

**APPROVALS:**

|                |                               |
|----------------|-------------------------------|
| Darcy Ellis    | Created/Initiated - 6/27/2022 |
| Leslie Chapman | Approved - 6/30/2022          |
| John Vallejo   | Approved - 6/30/2022          |
| Amy Shepherd   | Approved - 6/30/2022          |
| Leslie Chapman | Final Approval - 6/30/2022    |

**AMENDMENT NUMBER 1 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Chris Langley  
FOR THE PROVISION OF INYO COUNTY FILM COMMISSIONER SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Chris Langley of Lone Pine, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated May 25, 2021, on County of Inyo Standard Contract No. 117, for the term from July 1, 2021 to June 30, 2022.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**1. Paragraph 2. TERM is amended to read as follows:**

"The term of this Agreement shall be from July 1, 2021 to September 30, 2022 unless sooner terminated as provided below.

**2. Paragraph 3.D. Limit Upon Amount Payable Under Agreement is amended to read as follows:**

"The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem, if any, shall not exceed \$12,700.00 (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including incidental expenses which is in excess of the contract limit."

///NOTHING FOLLOWS\\

The effective date of this Amendment to the Agreement is July 1, 2023.

All the other terms and conditions of the Agreement are unchanged and remain the same.

**AMENDMENT NUMBER   1   TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Chris Langley  
FOR THE PROVISION OF INYO COUNTY FILM COMMISSIONER SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS

\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

COUNTY OF INYO

CONTRACTOR

By: \_\_\_\_\_

By: \_\_\_\_\_  
Signature

Dated: \_\_\_\_\_

\_\_\_\_\_  
Type or Print

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

\_\_\_\_\_  
County Risk Manager



# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 25<sup>th</sup> day of May 2021 an order was duly made and entered as follows:

*CAO-Advertising  
County Resources  
- Film  
Commissioner  
Contract*

The Board was being asked to approve a contract between Christopher Langley and the County of Inyo for provision of Film Commissioner services, for the period of July 1, 2021 to June 30, 2024 in an amount not to exceed \$109,400 (Year 1 = \$37,800; Year 2 = \$35,800; Year 3 = \$35,800). Supervisor Kingsley asked that the agenda item be pulled from the Consent Agenda to Departmental for discussion. He said he believes a one-year contract is more appropriate, and the Film Commissioner agrees. Supervisor Kingsley said this will allow the Board to revisit the role and responsibilities of the Film Commissioner going forward. Supervisor Roeser agreed, saying a whole discussion of the bigger picture of the County's Advertising County Resources program is warranted through a Board workshop and presentations from Langley. CAO Quilter said it might be wise not to get tied into a three-year contract considering changes within the film industry and the retirement of the staff member who is most engaged with the Advertising County Resources program.

Supervisor Totheroh suggested postponing approval of the contract until additional information was available. He then asked for clarification as to the contract amount Supervisor Kingsley was proposing for the single year, since different amounts were listed on the agenda for years 1 and 2-3. Langley said he was in agreement with one year, and only signed the three-year contract because he needed to get paperwork back to the Assistant Clerk of the Board to make today's agenda. Moved by Supervisor Kingsley and seconded by Supervisor Roeser to approve a contract between Christopher Langley and the County of Inyo for provision of Film Commissioner services, for the period of July 1, 2021 to June 30, 2022 in an amount not to exceed \$37,800, contingent upon the Board's approval of the Fiscal Year 2020-2021 Budget, and authorize the Chairperson to sign. Motion carried unanimously 4-0, with Supervisor Pucci absent. Chairperson Griffiths commented that it is unusual for Board members to negotiate contracts outside of the normal avenues, but suggested that discussion could come later.

|   |
|---|
| <i>Routing</i>  |
|   |
| CC<br>Purchasing<br>Personnel<br>Auditor<br>CAO Advertising Co. Resources<br>Other:<br>DATE: May 26, 2021 |

WITNESS my hand and the seal of said Board this 25<sup>th</sup>  
Day of May, 2021



CLINT G. QUILTER  
Clerk of the Board of Supervisors

A handwritten signature in blue ink, appearing to read "Clint G. Quilter".

By: \_\_\_\_\_



# County of Inyo



## County Administrator - Advertising County Resources

### CONSENT - ACTION REQUIRED

**MEETING:** May 25, 2021

**FROM:** Assistant Clerk of the Board

**SUBJECT:** Inyo County Film Commissioner Contract

---

#### RECOMMENDED ACTION:

Request Board approve a contract between Christopher Langley and the County of Inyo for provision of Film Commissioner services, for the period of July 1, 2021 to June 30, 2024 in an amount not to exceed \$109,400 (Year 1 = \$37,800; Year 2 = \$35,800; Year 3 = \$35,800), contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

#### SUMMARY/JUSTIFICATION:

Three years ago, your Board reviewed the history of the Inyo County's Film Commission structure and considered whether it wanted to issue a Request For Proposals for the continuation of contracted Film Commissioner Services. Your Board expressed its satisfaction with the existing structure for provision of Film Commissioner Services, and indicated its desire to have an opportunity to consider a new contract with Chris Langley rather than undertake an RFP process. The attached contract, presented today for consideration by your Board, implements the direction provided by the Board of Supervisors. The current contract is scheduled to expire June 30, 2021; the new one would expire June 30, 2024.

#### BACKGROUND/HISTORY OF BOARD ACTIONS:

#### ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Your Board may choose to not approve the contract, modify the contract, or direct staff to issue a Request for Proposals for Film Commissioner services.

#### OTHER AGENCY INVOLVEMENT:

The cost of the Film Commissioner Services contract is funded through the County General Fund without assistance from other local agencies.

#### FINANCING:

If approved, the contract will be subject to funding being appropriated in the Fiscal Year 2021-2022 County

Budget in Advertising County Resources (011400), in the Inyo County Film Commission object code (5535), and in subsequent County Budgets.

**ATTACHMENTS:**

1. Film Commissioner Contract FY21-22 to FY23-24
2. 20180626CAO-FilmComm. - ChrisLangleyContract

**APPROVALS:**

|                    |                               |
|--------------------|-------------------------------|
| Darcy Ellis        | Created/Initiated - 5/11/2021 |
| Denelle Carrington | Approved - 5/11/2021          |
| Marshall Rudolph   | Approved - 5/11/2021          |
| Amy Shepherd       | Approved - 5/12/2021          |
| Clint Quilter      | Final Approval - 5/12/2021    |

**AGREEMENT BETWEEN COUNTY OF INYO  
AND CHRIS LANGLEY  
FOR THE PROVISION OF FILM COMMISSIONER SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Film Commissioner services of Chris Langley of Lone Pine, CA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Clint Quilter whose title is: County Administrative Officer. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from July 1, 2021 to June 30, 2022 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. County shall reimburse Contractor for travel expenses and per diem which Contractor incurs in providing services and work requested by County under this Agreement. Contractor shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Contractor for approval to incur travel and per diem expenses shall be submitted to Clint Quilter whose title is: County Administrative Officer. Travel and per diem expenses will be reimbursed in the same amount and to the same extent as County reimburses its permanent status employees for such expenses. County reserves the right to deny reimbursement to Contractor for travel or per diem expenses which are either in excess of the amounts that may be paid to County's permanent status employees, or which are incurred by the Contractor without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed Thirty-seven eight-hundred dollars and no/100 Dollars (\$ 37,800 ) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Contractor's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Contractor during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

#### **4. WORK SCHEDULE.**

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

#### **5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the

services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

## **6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

## **7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

## **8. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

## **9. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

**10. DEFENSE AND INDEMNIFICATION.**

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

**11. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

**12. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

**13. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

**14. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**15. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**16. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

**17. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**18. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**19. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**20. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**21. FUNDING LIMITATION.**



The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

**22. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**23. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo  
County Administration Department  
P.O. Drawer N Address  
Independence, CA 93526 City and State

Contractor:

Chris Langley Name  
P.O. Box 99 Address  
Lone Pine, CA 93546 City and State

**24. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO  
AND CHRIS LANGLEY  
FOR THE PROVISION OF FILM COMMISSIONER SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS 25th DAY OF May, 2021.

**COUNTY OF INYO**

**CONTRACTOR**

By:   
Signature  
Jeff Griffiths, Chairperson  
Type or Print Name

By: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Type or Print Name

Dated: 05/25/2021

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

  
County Risk Manager

**AGREEMENT BETWEEN COUNTY OF INYO  
AND CHRIS LANGLEY  
FOR THE PROVISION OF FILM COMMISSIONER SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS 17 DAY OF May, 2021.

**COUNTY OF INYO**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Type or Print Name

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

**CONTRACTOR**

By: Chris Langley  
Signature

\_\_\_\_\_  
Type or Print Name

Dated: CHRISTOPHER LANGLEY

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND CHRIS LANGLEY  
FOR THE PROVISION OF FILM COMMISSIONER SERVICES**

**TERM:**

**FROM:** JULY 1, 2021 **TO:** JUNE 30, 2022

**SCOPE OF WORK:**

**Section I. General Duties & Responsibilities**

The Contractor shall act in the capacity of Inyo County Film Commissioner. As the Inyo County Film Commissioner, the Contractor must perform the duties necessary for County to maintain a formal relationship with the California Film Commission, and ensure the County's continued participation in the California Film Commission's Film Liaisons In California, Statewide (FLICS) Program. These duties include, but are not limited to:

- A. Actively working to attract film production into all areas of the County;
- B. Responding to production requests in a timely manner, not to exceed one week from the date of initial inquiry; and,
- C. Serving as a liaison between the film industry and the County and the community, including public and private landowners and other public agencies in the region.

In carrying out these duties, the Contractor shall regularly and routinely publicize contact information for the Office of the County Administrator as the venue where members of the film industry and the community can register compliments or complaints regarding the provision of Film Commissioner services. At a minimum, this information shall be included in the local crew lists, production guide, and resources database that the Contractor is required to develop, maintain, and distribute (in paper and electronic form acceptable to the County), and on any web site the Contractor develops, maintains, or operates in conjunction with these services.

In performance of these duties, the Contractor shall:

- Maintain a working knowledge of the County and local business and government practices;
- Stay informed on production issues in Inyo County communities and convey this information to producers;
- Serve as an experienced trouble shooter for producers and the communities in which they work;
- Know how to secure permission to film on a variety of properties within the County;
- Be familiar with potential filming locations within the County;
- Remain sensitive to the needs of the communities within the County;

- Never solicit or accept fees, payments, donations, or other contributions for the provision of Film Commissioner services or on behalf of any entity or organization unless so authorized pursuant to and in conjunction with the County's film permit requirements;
- Adhere to the FLICS Code of Responsibilities, including avoiding actual or apparent conflicts of interest between the official duties and services provided and private financial interests, as well as the provision of:
  - ✓ location scouting assistance;
  - ✓ referral and liaison services with industry facilities and services;
  - ✓ liaison services to and among communities, production companies, and government agencies;
  - ✓ augmented outreach; and,
  - ✓ timely and accurate information to production companies, the local community, governmental entities, and the California Film Commission;
- Provide film liaison and location services, including photography of locations;
- Provide service and support to each production company from the initial contact to the close of the production, including problem solving on film related matters;
- Act as a liaison between production companies and all levels of government, including the facilitation of permitting;
- Network with regional and state organizations related to filming;
- Only use the title of Inyo County Film Commissioner when acting in an official capacity pursuant to this agreement, and never for personal gain; and,
- Refrain from taking positions or engaging in activities, in an official capacity, contrary to the established policies of the County of Inyo or which might otherwise bring discredit to the County.

In addition, the Contractor shall:

1. Develop, maintain, and distribute local available crew lists in written and electronic form;
2. Develop, maintain, and distribute a local resources database, including photography of locations throughout all regions of the County, in written and electronic form;
3. Develop, maintain and distribute a current local production guide in written and electronic form; and,
4. Create and have published at least four (4) articles for the local and/or national and/or international media.

With regard to the crew lists, resources database, and production guide noted above, the Contractor will be required to provide these materials in an electronic format acceptable to the County so that the material may be hosted on the County website. In addition, if the material is to be hosted on another website, the website must utilize software approved by the Inyo County Information Services Director.

## Section II. Administrative Services

The Contractor is responsible for providing for all administrative functions necessary to support the Inyo County Film Commission, including:

1. Maintaining physical office space, including a telephone line and answering machine or service, and payment of all utility costs;
2. Maintaining and, as appropriate, publicizing:
  - a. a physical mailing address or Post Office Box;
  - b. a cellular telephone;
  - c. an e-mail account; and,
  - d. an internet-based photo hosting service
3. Arranging for clerical support, and any other personal contract services that may be necessary to support the duties and responsibilities of the Film Commissioner
4. Providing all office supplies and, as necessary, photocopying and facsimile transmittal services

In addition, the Contractor shall maintain an active membership in FLICS, and attend between two (2) and four (4) FLICS membership meetings during the term of the contract. Attendance may be in person or via teleconference. The Contractor is responsible for preparing, maintaining, and administering all notifications and paperwork to the California Film Commission necessary to designate the Contractor as the Inyo Film Commissioner.

Furthermore, as directed during the course of this contract, the Contractor may be required to research and work with County staff to evaluate and make a recommendation to the Inyo County Board of Supervisors regarding the feasibility of modifying the County's film permit requirements, including the levying of fees to support the Inyo County Film Commission.

If the County's film permit requirements are modified, the Contractor will be expected to implement and administer the County film permit process for non-County facilities and properties, as directed. If adopted, implementation and administration of the modified film permit may include but not be limited to:

- Publicizing the need for a County film permit;
- Determining the applicability of the County film permit requirements and associated fee schedule to specific filming activities;
- Ensuring all filming activities subject to the film permit requirements apply for a County film permit;
- Working with film permit applicants to ascertain the information necessary for the Film Commissioner to prepare a film permit, including the appropriate(s) fee for the filming activity in question, for submission to the County;
- Promptly notifying the County office responsible for finalizing film permits when a film permit has been prepared for submission; and,
- Preparing a monthly compilation of all film permits prepared by the Film Commissioner, to be submitted to the County with the Contractor's monthly invoice for payment of services.

### Section III. Reporting

The Contractor shall keep the County Administrator or his designee, and the Inyo County Board of Supervisors apprised of its activities and accomplishments in the performance of the Agreement. At a minimum, the Contractor shall:

1. Within 30-days of execution of the Agreement for the provision of Film Commissioner Services, the Contractor shall prepare all notifications and paperwork required by the California Film Commission necessary to designate the Contractor as the Inyo Film Commissioner. These documents shall be transmitted to the Office of the County Administrator for review and approval in advance of their submittal to the California Film Commission and, if necessary, for submittal to the California Film Commission by the County. Any subsequent modifications that may be required to this documentation will be processed in the same manner.
2. As soon as practicable, but no later than seven (7) days of receipt, the Contractor shall transmit to the Office of the County Administrator any notices or other communications the Contractor receives from the California Film Commission.
3. Within 60-days of execution of the Agreement for the provision of Film Commissioner Services, the Contractor shall submit to the Office of the County Administrator, in paper and electronic form, the local crew lists, local production guide and local resources database, including photography of locations throughout all regions of the County, that the Contractor is required to develop, maintain and distribute under the terms of this agreement. These products will become property of the County, and must be submitted in an electronic format acceptable to the County for viewing, reproduction and posting to a County web site. As part of their submittal, the Contractor must identify all physical and electronic locations where these resources are available.
4. As needed, and at least once every 12 months and one (1) month prior to the expiration of the Agreement for the provision of Film Commissioner Services, the Contractor shall update the local crew lists, local production guide and local resources database, including photography of locations throughout all regions of the County, and transmit this information to the County as required in item 3 above.

5. Copies of all articles generated by the Contractor and published by local and/or national and/or international media will be transmitted to the Office of the County Administrator with the Contractor's next monthly invoice for services;
6. Make at least two (2) Verbal Reports a year, once in April and once in October, to the Board of Supervisors during the course of this contract. The Contractor is encouraged to make additional Verbal Reports to the Board of Supervisors as may be warranted based on filming activity in the County. The Contractor will be responsible for contacting the Assistant Board Clerk to make arrangements to be placed on the Board of Supervisors' agenda.
7. In addition to the two (2) Verbal Reports required in item 6 above, the Contractor shall prepare and present, in person, two (2) Written Reports a year to the Board of Supervisors. The Written Reports shall be submitted to the County Administrator, to be agendaized for an upcoming Board of Supervisors' meeting, no later than June 1st and January 1st of each year during the term of the Agreement for the provision of Film Commissioner Services.
8. During the last year of the Agreement, the Written Reports shall be prepared and submitted no later than November 1st in lieu of the January 1st deadline, and May 1st in lieu of the June 1st deadline to facilitate the County's consideration of any contract extension or renewal. At a minimum, the Written Reports must include:
  - a. A summary of the Contractor's activities and accomplishments relative to carrying-out the duties and responsibilities of Inyo County Film Commissioner;
  - b. A tally, by type of production (e.g., major motion picture, minor film, commercial, still photography or other categories deemed meaningful by the Film Commissioner) since execution of the Agreement or since submittal of the last Written Report of:
    - i. production requests received by the Contractor;
    - ii. production contacts initiated by the Contractor; and,
    - iii. (if applicable) County Film Permits prepared by the Contractor;
  - c. Identification and itemization, by category, of all productions filmed in Inyo County since execution of the Agreement or since submittal of the last Written Report. For each production identified, the Contractor shall provide their best estimate as to:
    - i. The number of out-of-county personnel involved in the production;
    - ii. The number of hotel/motel room nights encumbered by the production, and the estimated value;
    - iii. The number of local residents directly employed by the production, and the estimated aggregate compensation of those employed; and,
    - iv. The number and types of local businesses providing goods or services to the production, and the estimated aggregate value of the goods or services;
  - d. Discussion of specific marketing efforts including copies of tear sheets, copies of web-pages, identification of events attended, and, photos of any Contractor exhibits or displays at attended events;
  - e. Copies of the current local crew list, current local production guide, and current local resources database, including photography of locations throughout all regions of the County; and,
  - f. Copies of all Contractor-generated articles published since the last written report.

The parties agree that it would be impracticable and extremely difficult to ascertain the amount of actual damages caused by a material breach of these reporting requirements. Therefore, the parties agree that, in the event that Contractor fails to comply with these reporting requirements and associated deadlines, Contractor shall pay County, as liquidated damages, the amount of Contractor's monthly fee, as established in the Fee Schedule of the Agreement for the provision of Film Commissioner Services, for each failure to comply, which amount will be deducted from amounts due the Contractor.

#### Section IV. Additional Marketing Activities

In addition to marketing the County as a filming location through active participation in FLICS and its California Location Request Service and creating articles for the local, national, and/or international media, the Contractor may perform, and be compensated separately for, additional marketing activities identified in the Contractor's proposal and associated budget, and agreed to in the Fee Schedule included in the Agreement for the provision of Film Commissioner Services. Separately compensated marketing activities may include but are not limited to:

1. If the Film Commission web content will be hosted on the County website, the Contract may be asked and compensated to develop content beyond the crew lists, local resources database, location photographs, production guide, articles described in Section I.
2. If the web content will not be hosted on the County website, the Film Commissioner may be asked to and compensated for developing and maintaining an interactive Inyo County Film Commission website. In developing and maintaining any such website, the Contractor must:
  - a. Register Inyo County as the owner of the domain name for the web site, and provide the County's Information Services Director with the information necessary to maintain the registration;
  - b. Develop the web site using software specified by the County's Information Services Director;
  - c. Host the web site on a server to specified or approved by the County's Information Services Director and to which the County's Information Services staff has access; and,
  - d. Provide back-up electronic copies of all web site content to the Information Services Director. Electronic copies of all subsequent updates to the web site must be transmitted to the County's Information Services Director within 14-days of implementation.

Any payment for such website development and maintenance services performed by the Contractor is dependent on the Contractor's adherence to these requirements.

3. Attend appropriate industry events, and maintain a professional and attractive presence at industry trade shows by engaging the use of creative booth space and collateral material ( e.g., artwork, hand-outs, etc.), including the COLA awards dinner and show and/or the Association of Film Commissions International (AFCI) Locations Show.

All resource materials and promotional materials developed in conjunction with this Scope of Work, including but not limited to the Inyo County Film Commission web-site, domain name, artwork and hand-outs distributed at industry events, local crew lists, local production guide, and local resources database (including photography of locations throughout all regions of the County), in written and electronic form, shall:

- A. Identify the Office of the County Administrator as the venue where members of the film industry and the community can register compliments or complaints regarding the provision of Film Commissioner services, and provide the telephone number and e-mail address for the Office of the County Administrator for this purpose.
- B. Become the property of the County of Inyo.



**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND CHRIS LANGLEY  
FOR THE PROVISION OF FILM COMMISSIONER SERVICES**

**TERM:**

**FROM:** July 1, 2021 **TO:** June 30, 2022

**SCHEDULE OF FEES:**

**Section I. General Duties & Responsibilities, Administrative Services, Reporting**

In consideration for the services and work identified in Section I. General Duties & Responsibilities, Section II. Administrative Services, and Section III. Reporting of Attachment A: Scope of Work, the contractor shall be paid a flat fee of:

- \$2,500.00 per month for the period of July 1, 2021 through June 30, 2022

**Section II. Marketing Activities**

For the specific marketing activities the Contractor is required to perform, and identified in Section IV. Marketing Activities of Attachment A: Scope of Work, the contractor shall be paid the actual cost of the specific activity, documented by paid receipts, in an amount not to exceed the amount identified below for each activity:

1. If, the Film Commission web content is not hosted on the County website, and the Film Commissioner is asked to develop and maintain an interactive Inyo County Film Commission web-site pursuant to Attachment A: Section IV. 2.:
  - \$3,000.00 for the development of the website and \$1,000 per year for its maintenance.
2. Attend appropriate industry events, and maintaining a professional and attractive presence at industry trade shows by engaging the use of creative booth space and collateral material (e.g., artwork, hand-outs, etc.), including the COLA awards dinner and show and/or the Association of Film Commissions International (AFCI) Locations Show:
  - \$1,200.00 for the period July 1, 2021 through June 30, 2022

**Section III. Travel & Per Diem**

The Contractor's travel and per diem expense shall be paid in accordance with Section 3. Paragraph B. of this Agreement. These costs include all mileage, lodging and food expenses associated with all of the general services and work requested by the County in this Agreement, as well as the specific marketing activities requested by the County in this Agreement.

The Contractor's travel and per diem expense reimbursement shall not exceed:

- \$3,600.00 for the period July 1, 2021 through June 30, 2022

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** CHRIS LANGLEY  
**FOR THE PROVISION OF** FILM COMMISSIONER **SERVICES**

**TERM:**

**FROM:** JULY 1, 2021 **TO:** JUNE 30, 2022

**SEE ATTACHED INSURANCE PROVISIONS**

**Specifications 1**  
**Insurance Requirements for Most Contracts**  
**(Not for Professional Services or Construction Contracts)**

Contractor shall 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 hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

**Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

***Additional Insured Status***

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

### ***Primary Coverage***

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

### ***Waiver of Subrogation***

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

### ***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 the Entity.

### ***Verification of Coverage***

Contractor shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

### ***Special Risks or Circumstances***

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** CHRIS LANGLEY  
**FOR THE PROVISION OF** FILM COMMISSIONER **SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Film Commissioner services of Chris Langley of Lone Pine, CA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Clint Quilter whose title is: County Administrative Officer. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from July 1, 2021 to June 30, 2024 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. County shall reimburse Contractor for travel expenses and per diem which Contractor incurs in providing services and work requested by County under this Agreement. Contractor shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Contractor for approval to incur travel and per diem expenses shall be submitted to Clint Quilter whose title is: County Administrative Officer. Travel and per diem expenses will be reimbursed in the same amount and to the same extent as County reimburses its permanent status employees for such expenses. County reserves the right to deny reimbursement to Contractor for travel or per diem expenses which are either in excess of the amounts that may be paid to County's permanent status employees, or which are incurred by the Contractor without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits,

retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed one hundred nine thousand four hundred Dollars (\$ 109,400.00 ) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Contractor's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Contractor during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

#### **4. WORK SCHEDULE.**

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

#### **5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and

permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

## **6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

## **7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

## **8. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

## **9. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.



B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

#### **10. DEFENSE AND INDEMNIFICATION.**

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

#### **11. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

#### **12. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

#### **13. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

#### **14. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**15. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**16. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

**17. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**18. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**19. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**20. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**21. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

**22. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**23. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

|                               |                |
|-------------------------------|----------------|
| County of Inyo                |                |
| <u>County Administration</u>  | Department     |
| <u>P.O. Drawer N</u>          | Address        |
| <u>Independence, CA 93526</u> | City and State |

Contractor:

|                            |                |
|----------------------------|----------------|
| <u>Chris Langley</u>       | Name           |
| <u>P.O. Box 99</u>         | Address        |
| <u>Lone Pine, CA 93545</u> | City and State |

**24. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** CHRIS LANGLEY  
**FOR THE PROVISION OF** FILM COMMISSIONER **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

  
\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

  
\_\_\_\_\_  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

  
\_\_\_\_\_  
County Risk Manager

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** CHRIS LANGLEY  
**FOR THE PROVISION OF** FILM COMMISSIONER **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS 17 DAY OF May, 2021.

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_  
Signature

By:   
Signature

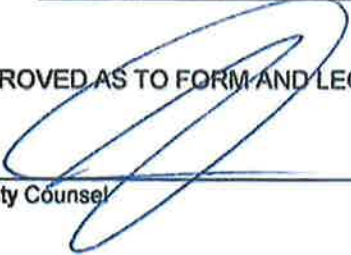
\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

Dated: \_\_\_\_\_

Dated: CHRISTOPHER LANGLEY

APPROVED AS TO FORM AND LEGALITY:

  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND CHRIS LANGLEY  
FOR THE PROVISION OF FILM COMMISSIONER SERVICES**

**TERM:**

**FROM:** JULY 1, 2021 **TO:** JUNE 30, 2024

**SCOPE OF WORK:**

**Section I. General Duties & Responsibilities**

The Contractor shall act in the capacity of Inyo County Film Commissioner. As the Inyo County Film Commissioner, the Contractor must perform the duties necessary for County to maintain a formal relationship with the California Film Commission, and ensure the County's continued participation in the California Film Commission's Film Liaisons In California, Statewide (FLICS) Program. These duties include, but are not limited to:

- A. Actively working to attract film production into all areas of the County;
- B. Responding to production requests in a timely manner, not to exceed one week from the date of initial inquiry; and,
- C. Serving as a liaison between the film industry and the County and the community, including public and private landowners and other public agencies in the region.

In carrying out these duties, the Contractor shall regularly and routinely publicize contact information for the Office of the County Administrator as the venue where members of the film industry and the community can register compliments or complaints regarding the provision of Film Commissioner services. At a minimum, this information shall be included in the local crew lists, production guide, and resources database that the Contractor is required to develop, maintain, and distribute (in paper and electronic form acceptable to the County), and on any web site the Contractor develops, maintains, or operates in conjunction with these services.

In performance of these duties, the Contractor shall:

- Maintain a working knowledge of the County and local business and government practices;
- Stay informed on production issues in Inyo County communities and convey this information to producers;
- Serve as an experienced trouble shooter for producers and the communities in which they work;
- Know how to secure permission to film on a variety of properties within the County;
- Be familiar with potential filming locations within the County;
- Remain sensitive to the needs of the communities within the County;

- Never solicit or accept fees, payments, donations, or other contributions for the provision of Film Commissioner services or on behalf of any entity or organization unless so authorized pursuant to and in conjunction with the County's film permit requirements;
- Adhere to the FLICS Code of Responsibilities, including avoiding actual or apparent conflicts of interest between the official duties and services provided and private financial interests, as well as the provision of:
  - ✓ location scouting assistance;
  - ✓ referral and liaison services with industry facilities and services;
  - ✓ liaison services to and among communities, production companies, and government agencies;
  - ✓ augmented outreach; and,
  - ✓ timely and accurate information to production companies, the local community, governmental entities, and the California Film Commission;
- Provide film liaison and location services, including photography of locations;
- Provide service and support to each production company from the initial contact to the close of the production, including problem solving on film related matters;
- Act as a liaison between production companies and all levels of government, including the facilitation of permitting;
- Network with regional and state organizations related to filming;
- Only use the title of Inyo County Film Commissioner when acting in an official capacity pursuant to this agreement, and never for personal gain; and,
- Refrain from taking positions or engaging in activities, in an official capacity, contrary to the established policies of the County of Inyo or which might otherwise bring discredit to the County.

In addition, the Contractor shall:

1. Develop, maintain, and distribute local available crew lists in written and electronic form;
2. Develop, maintain, and distribute a local resources database, including photography of locations throughout all regions of the County, in written and electronic form;
3. Develop, maintain and distribute a current local production guide in written and electronic form; and,
4. Create and have published at least four (4) articles for the local and/or national and/or international media.

With regard to the crew lists, resources database, and production guide noted above, the Contractor will be required to provide these materials in an electronic format acceptable to the County so that the material may be hosted on the County website. In addition, if the material is to be hosted on another website, the website must utilize software approved by the Inyo County Information Services Director.

## Section II. Administrative Services

The Contractor is responsible for providing for all administrative functions necessary to support the Inyo County Film Commission, including:

1. Maintaining physical office space, including a telephone line and answering machine or service, and payment of all utility costs;
2. Maintaining and, as appropriate, publicizing:
  - a. a physical mailing address or Post Office Box;
  - b. a cellular telephone;
  - c. an e-mail account; and,
  - d. an internet-based photo hosting service
3. Arranging for clerical support, and any other personal contract services that may be necessary to support the duties and responsibilities of the Film Commissioner
4. Providing all office supplies and, as necessary, photocopying and facsimile transmittal services

In addition, the Contractor shall maintain an active membership in FLICS, and attend between two (2) and four (4) FLICS membership meetings during the term of the contract. Attendance may be in person or via teleconference. The Contractor is responsible for preparing, maintaining, and administering all notifications and paperwork to the California Film Commission necessary to designate the Contractor as the Inyo Film Commissioner.

Furthermore, as directed during the course of this contract, the Contractor may be required to research and work with County staff to evaluate and make a recommendation to the Inyo County Board of Supervisors regarding the feasibility of modifying the County's film permit requirements, including the levying of fees to support the Inyo County Film Commission.

If the County's film permit requirements are modified, the Contractor will be expected to implement and administer the County film permit process for non-County facilities and properties, as directed. If adopted, implementation and administration of the modified film permit may include but not be limited to:

- Publicizing the need for a County film permit;
- Determining the applicability of the County film permit requirements and associated fee schedule to specific filming activities;
- Ensuring all filming activities subject to the film permit requirements apply for a County film permit;
- Working with film permit applicants to ascertain the information necessary for the Film Commissioner to prepare a film permit, including the appropriate(s) fee for the filming activity in question, for submission to the County;
- Promptly notifying the County office responsible for finalizing film permits when a film permit has been prepared for submission; and,
- Preparing a monthly compilation of all film permits prepared by the Film Commissioner, to be submitted to the County with the Contractor's monthly invoice for payment of services.

### Section III. Reporting

The Contractor shall keep the County Administrator or his designee, and the Inyo County Board of Supervisors apprised of its activities and accomplishments in the performance of the Agreement. At a minimum, the Contractor shall:

1. Within 30-days of execution of the Agreement for the provision of Film Commissioner Services, the Contractor shall prepare all notifications and paperwork required by the California Film Commission necessary to designate the Contractor as the Inyo Film Commissioner. These documents shall be transmitted to the Office of the County Administrator for review and approval in advance of their submittal to the California Film Commission and, if necessary, for submittal to the California Film Commission by the County. Any subsequent modifications that may be required to this documentation will be processed in the same manner.
2. As soon as practicable, but no later than seven (7) days of receipt, the Contractor shall transmit to the Office of the County Administrator any notices or other communications the Contractor receives from the California Film Commission.
3. Within 60-days of execution of the Agreement for the provision of Film Commissioner Services, the Contractor shall submit to the Office of the County Administrator, in paper and electronic form, the local crew lists, local production guide and local resources database, including photography of locations throughout all regions of the County, that the Contractor is required to develop, maintain and distribute under the terms of this agreement. These products will become property of the County, and must be submitted in an electronic format acceptable to the County for viewing, reproduction and posting to a County web site. As part of their submittal, the Contractor must identify all physical and electronic locations where these resources are available.
4. As needed, and at least once every 12 months and one (1) month prior to the expiration of the Agreement for the provision of Film Commissioner Services, the Contractor shall update the local crew lists, local production guide and local resources database, including photography of locations throughout all regions of the County, and transmit this information to the County as required in item 3 above.



5. Copies of all articles generated by the Contractor and published by local and/or national and/or international media will be transmitted to the Office of the County Administrator with the Contractor's next monthly invoice for services;
6. Make at least two (2) Verbal Reports a year, once in April and once in October, to the Board of Supervisors during the course of this contract. The Contractor is encouraged to make additional Verbal Reports to the Board of Supervisors as may be warranted based on filming activity in the County. The Contractor will be responsible for contacting the Assistant Board Clerk to make arrangements to be placed on the Board of Supervisors' agenda.
7. In addition to the two (2) Verbal Reports required in item 6 above, the Contractor shall prepare and present, in person, two (2) Written Reports a year to the Board of Supervisors. The Written Reports shall be submitted to the County Administrator, to be agendaized for an upcoming Board of Supervisors' meeting, no later than June 1st and January 1st of each year during the term of the Agreement for the provision of Film Commissioner Services.
8. During the last year of the Agreement, the Written Reports shall be prepared and submitted no later than November 1st in lieu of the January 1st deadline, and May 1st in lieu of the June 1st deadline to facilitate the County's consideration of any contract extension or renewal. At a minimum, the Written Reports must include:
  - a. A summary of the Contractor's activities and accomplishments relative to carrying-out the duties and responsibilities of Inyo County Film Commissioner;
  - b. A tally, by type of production (e.g., major motion picture, minor film, commercial, still photography or other categories deemed meaningful by the Film Commissioner) since execution of the Agreement or since submittal of the last Written Report of:
    - i. production requests received by the Contractor;
    - ii. production contacts initiated by the Contractor; and,
    - iii. (if applicable) County Film Permits prepared by the Contractor;
  - c. Identification and itemization, by category, of all productions filmed in Inyo County since execution of the Agreement or since submittal of the last Written Report. For each production identified, the Contractor shall provide their best estimate as to:
    - i. The number of out-of-county personnel involved in the production;
    - ii. The number of hotel/motel room nights encumbered by the production, and the estimated value;
    - iii. The number of local residents directly employed by the production, and the estimated aggregate compensation of those employed; and,
    - iv. The number and types of local businesses providing goods or services to the production, and the estimated aggregate value of the goods or services;
  - d. Discussion of specific marketing efforts including copies of tear sheets, copies of web-pages, identification of events attended, and, photos of any Contractor exhibits or displays at attended events;
  - e. Copies of the current local crew list, current local production guide, and current local resources database, including photography of locations throughout all regions of the County; and,
  - f. Copies of all Contractor-generated articles published since the last written report.

The parties agree that it would be impracticable and extremely difficult to ascertain the amount of actual damages caused by a material breach of these reporting requirements. Therefore, the parties agree that, in the event that Contractor fails to comply with these reporting requirements and associated deadlines, Contractor shall pay County, as liquidated damages, the amount of Contractor's monthly fee, as established in the Fee Schedule of the Agreement for the provision of Film Commissioner Services, for each failure to comply, which amount will be deducted from amounts due the Contractor.

#### Section IV. Additional Marketing Activities

In addition to marketing the County as a filming location through active participation in FLICS and its California Location Request Service and creating articles for the local, national, and/or international media, the Contractor may perform, and be compensated separately for, additional marketing activities identified in the Contractor's proposal and associated budget, and agreed to in the Fee Schedule included in the Agreement for the provision of Film Commissioner Services. Separately compensated marketing activities may include but are not limited to:

1. If the Film Commission web content will be hosted on the County website, the Contract may be asked and compensated to develop content beyond the crew lists, local resources database, location photographs, production guide, articles described in Section I.
2. If the web content will not be hosted on the County website, the Film Commissioner may be asked to and compensated for developing and maintaining an interactive Inyo County Film Commission website. In developing and maintaining any such website, the Contractor must:
  - a. Register Inyo County as the owner of the domain name for the web site, and provide the County's Information Services Director with the information necessary to maintain the registration;
  - b. Develop the web site using software specified by the County's Information Services Director;
  - c. Host the web site on a server to specified or approved by the County's Information Services Director and to which the County's Information Services staff has access; and,
  - d. Provide back-up electronic copies of all web site content to the Information Services Director. Electronic copies of all subsequent updates to the web site must be transmitted to the County's Information Services Director within 14-days of implementation.

Any payment for such website development and maintenance services performed by the Contractor is dependent on the Contractor's adherence to these requirements.

3. Attend appropriate industry events, and maintain a professional and attractive presence at industry trade shows by engaging the use of creative booth space and collateral material ( e.g., artwork, hand-outs, etc.), including the COLA awards dinner and show and/or the Association of Film Commissions International (AFCI) Locations Show.

All resource materials and promotional materials developed in conjunction with this Scope of Work, including but not limited to the Inyo County Film Commission web-site, domain name, artwork and hand-outs distributed at industry events, local crew lists, local production guide, and local resources database (including photography of locations throughout all regions of the County), in written and electronic form, shall:

- A. Identify the Office of the County Administrator as the venue where members of the film industry and the community can register compliments or complaints regarding the provision of Film Commissioner services, and provide the telephone number and e-mail address for the Office of the County Administrator for this purpose.
- B. Become the property of the County of Inyo.

**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND CHRIS LANGLEY  
FOR THE PROVISION OF FILM COMMISSIONER SERVICES**

**TERM:**

**FROM:** July 1, 2021 **TO:** June 30, 2024

**SCHEDULE OF FEES:**

**Section I. General Duties & Responsibilities, Administrative Services, Reporting**

In consideration for the services and work identified in Section I. General Duties & Responsibilities, Section II. Administrative Services, and Section III. Reporting of Attachment A: Scope of Work, the contractor shall be paid a flat fee of:

- \$2,500.00 per month for the period of July 1, 2021 through June 30, 2024

**Section II. Marketing Activities**

For the specific marketing activities the Contractor is required to perform, and identified in Section IV. Marketing Activities of Attachment A: Scope of Work, the contractor shall be paid the actual cost of the specific activity, documented by paid receipts, in an amount not to exceed the amount identified below for each activity:

1. If, the Film Commission web content is not hosted on the County website, and the Film Commissioner is asked to develop and maintain an interactive Inyo County Film Commission web-site pursuant to Attachment A: Section IV. 2.:
  - \$3,000.00 for the development of the website and \$1,000 per year for its maintenance.
2. Attend appropriate industry events, and maintaining a professional and attractive presence at industry trade shows by engaging the use of creative booth space and collateral material (e.g., artwork, hand-outs, etc.), including the COLA awards dinner and show and/or the Association of Film Commissions International (AFCI) Locations Show:
  - \$1,200.00 for the period July 1, 2021 through June 30, 2022;
  - \$1,200.00 for the period July 1, 2022 through June 30, 2023;
  - \$1,200.00 for the period July 1, 2023 through June 30, 2024.

**Section III. Travel & Per Diem**

The Contractor's travel and per diem expense shall be paid in accordance with Section 3. Paragraph B. of this Agreement. These costs include all mileage, lodging and food expenses associated with all of the general services and work requested by the County in this Agreement, as well as the specific marketing activities requested by the County in this Agreement.

The Contractor's travel and per diem expense reimbursement shall not exceed:

- \$3,600.00 for the period July 1, 2021 through June 30, 2022;
- \$3,600.00 for the period July 1, 2022 through June 30, 2023;
- \$3,600.00 for the period July 1, 2023 through June 30, 2024.

The provisions of Section 3. Paragraph B. of this Agreement notwithstanding, due to the often times spontaneous nature of the services and work being performed, the Contractor is pre-approved to incur travel and per diem expenses in an amount not to exceed:

- \$3,600.00 for the period July 1, 2021 through June 30, 2022;
- \$3,600.00 for the period July 1, 2022 through June 30, 2023;
- \$3,600.00 for the period July 1, 2023 through June 30, 2024.

**ATTACHMENT C**

**AND** **AGREEMENT BETWEEN COUNTY OF INYO**  
**CHRIS LANGLEY**  
**FOR THE PROVISION OF** \_\_\_\_\_ **FILM COMMISSIONER** \_\_\_\_\_ **SERVICES**

**TERM:**

**FROM:**       JULY 1, 2021       **TO:**       JUNE 30, 2024      

**SEE ATTACHED INSURANCE PROVISIONS**

**Specifications 1**  
**Insurance Requirements for Most Contracts**  
**(Not for Professional Services or Construction Contracts)**

Contractor shall 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 hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

**Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

***Additional Insured Status***

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

### ***Primary Coverage***

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

### ***Waiver of Subrogation***

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

### ***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 the Entity.

### ***Verification of Coverage***

Contractor shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

### ***Special Risks or Circumstances***

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 26<sup>th</sup> day of June 2018 an order was duly made and entered as follows:

*CAO-Film  
Commissioner –  
Chris Langley  
Contract*

Moved by Supervisor Griffiths and seconded by Supervisor Pucci to approve a contract between the County of Inyo and Chris Langley for the provision of Film Commissioner services on behalf of the County, for the period of July 1, 2018 through June 30, 2021 in a total amount not to exceed \$109,400, subject to the Board's approval of future County budgets, and authorize the County Administrator to sign contingent on all appropriate signatures being obtained. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 26<sup>th</sup>  
Day of June, 2018



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisor

By: \_\_\_\_\_

|   |
|---|
| <b>Routing</b>  |
|   |
| CC<br>Purchasing<br>Personnel<br>Auditor<br>CAO X<br>Other:<br>DATE: July 6, 2018 |





**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

14

X Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator – Film Commissioner

**FOR THE BOARD MEETING OF:** June 26, 2018

**SUBJECT:** Film Commissioner Services

**DEPARTMENTAL RECOMMENDATION:**

Request your Board consider a contract between the County of Inyo and Chris Langley for the provision Film Commissioner on behalf of the County, for the period of July 1, 2018, June 30, 2021 in a total amount not to exceed \$109,400 subject to the approval of future County Budgets, and authorize the County Administrator to sign contingent on all signatures being obtained.

**SUMMARY DISCUSSION:**

On January 16, 2018, your Board reviewed the history of the Inyo County's Film Commission structure and considered whether it wanted to issue a Request For Proposals for the continuation of contracted Film Commissioner Services. Your Board expressed its satisfaction with the current structure for provision of Film Commissioner Services, and indicated its desire to have an opportunity to consider a new contract with Chris Langley rather than undertake an RFP process. The attached contract, presented today for consideration by your Board, implements the direction provided by your Board in January, and reflects minor modifications requested by the Contractor, or recommended by staff.

**OTHER AGENCY INVOLVEMENT:**

The cost of the Film Commissioner Services contract is funded through the County General Fund without assistance from other local agencies.

**FINANCING:**

If approved, the contract will be subject to funding being appropriated in the Fiscal Year 2018-2019 County Budget in Advertising County Resources (011400), in the Inyo County Film Commission object code (5535), in subsequent County Budgets. The Fiscal Year 2018-2019 Preliminary County Budget, adopted by your Board last week, includes funding for this contract until the Fiscal Year 2018-2019 Final Budget is approved later this summer.

**APPROVALS**

|                                       |   |
|---------------------------------------|---|
| COUNTY COUNSEL:                       | AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)<br><br>Approved: <u>yes</u> Date <u>6/19/18</u> |
| AUDITOR/CONTROLLER:                   | ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)<br><br>Approved: <u>yes</u> Date <u>6-19-18</u>                              |
| PERSONNEL DIRECTOR:<br><br><u>N/A</u> | PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)<br><br>Approved: _____ Date _____   |

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)

(The Original plus 20 copies of this document are required)

[Signature]

Date: 06-19-2018

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Chris Langley  
**FOR THE PROVISION OF** Film Commissioner **SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Film Commissioner services of Chris Langley of Lone Pine, California (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Kevin Carunchio whose title is: County Administrative Officer. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from July 1, 2018 to June 30, 2021 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. County shall reimburse Contractor for travel expenses and per diem which Contractor incurs in providing services and work requested by County under this Agreement. Contractor shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Contractor for approval to incur travel and per diem expenses shall be submitted to Kevin Carunchio whose title is: County Administrative Officer. Travel and per diem expenses will be reimbursed in the same amount and to the same extent as County reimburses its permanent status employees for such expenses. County reserves the right to deny reimbursement to Contractor for travel or per diem expenses which are either in excess of the amounts that may be paid to County's permanent status employees, or which are incurred by the Contractor without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed \$109,400.00\*\*\*\*\* Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Contractor's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Contractor during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

#### 4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

**5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

**6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

**7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

**8. WORKERS' COMPENSATION.**

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than \$1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

**9. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

**10. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

**11. DEFENSE AND INDEMNIFICATION.**

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the Contractor, its agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

**12. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of

this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

**13. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

**14. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

**15. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**16. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**17. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-three (23) below.

**18. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by

Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**19. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**20. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**21. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**22. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-three (23) (Amendment).

**23. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**24. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be



required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

|                        |                |
|------------------------|----------------|
| County of Inyo         |                |
| County Administration  | Department     |
| P.O. Drawer N          | Address        |
| Independence, CA 93526 | City and State |

Contractor:

|                     |                |
|---------------------|----------------|
| Chris Langley       | Name           |
| P.O. Box 99         | Address        |
| Lone Pine, CA 93545 | City and State |

**25. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Chris Langley  
**FOR THE PROVISION OF** Film Commissioner **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS 26th DAY OF June, 2018.

**COUNTY OF INYO**

**CONTRACTOR**

By: [Signature]  
Signature  
KEVIN D CARLUCCI  
Type or Print Name

By: [Signature]  
Signature  
CHRISTOPHER LANGLEY  
Type or Print Name

Dated: 06-26-2018

Dated: 6/21/18

APPROVED AS TO FORM AND LEGALITY:

[Signature]  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Chris Langley  
**FOR THE PROVISION OF** Film Commissioner **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS 26th DAY OF June, 2018

**COUNTY OF INYO**

**CONTRACTOR**

By: [Signature]  
Signature  
KEVIN D CARROLL  
Type or Print Name

By: [Signature]  
Signature  
CHRISTOPHER LANGLEY  
Type or Print Name

Dated: 06-26-2018

Dated: 6/21/18

**APPROVED AS TO FORM AND LEGALITY:**

[Signature]  
County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

[Signature]  
County Auditor

**APPROVED AS TO PERSONNEL REQUIREMENTS:**

[Signature]  
Personnel Services

**APPROVED AS TO INSURANCE REQUIREMENTS:**

[Signature]  
County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND Chris Langley  
FOR THE PROVISION OF Film Commissioner SERVICES**

**TERM:**

**FROM:** July 1, 2018

**TO:** June 30, 2021

**SCOPE OF WORK:**

**Section I. General Duties & Responsibilities**

The Contractor shall act in the capacity of Inyo County Film Commissioner. As the Inyo County Film Commissioner, the Contractor must perform the duties necessary for County to maintain a formal relationship with the California Film Commission, and ensure the County's continued participation in the California Film Commission's *Film Liaisons In California, Statewide* (FLICS) Program. These duties include, but are not limited to:

- A. Actively working to attract film production into all areas of the County;
- B. Responding to production requests in a timely manner, not to exceed one week from the date of initial inquiry; and,
- C. Serving as a liaison between the film industry and the County and the community, including public and private landowners and other public agencies in the region.

In carrying out these duties, the Contractor shall regularly and routinely publicize contact information for the Office of the County Administrator as the venue where members of the film industry and the community can register compliments or complaints regarding the provision of Film Commissioner services. At a minimum, this information shall be included in the local crew lists, production guide, and resources database that the Contractor is required to develop, maintain, and distribute (in paper and electronic form acceptable to the County), and on any web site the Contractor develops, maintains, or operates in conjunction with these services.

In performance of these duties, the Contractor shall:

- Maintain a working knowledge of the County and local business and government practices;
- Stay informed on production issues in Inyo County communities and convey this information to producers;
- Serve as an experienced trouble shooter for producers and the communities in which they work;
- Know how to secure permission to film on a variety of properties within the County;
- Be familiar with potential filming locations within the County;
- Remain sensitive to the needs of the communities within the County;

- Never solicit or accept fees, payments, donations, or other contributions for the provision of Film Commissioner services or on behalf of any entity or organization unless so authorized pursuant to and in conjunction with the County's film permit requirements;
- Adhere to the FLICS Code of Responsibilities, including avoiding actual or apparent conflicts of interest between the official duties and services provided and private financial interests, as well as the provision of:
  - ✓ location scouting assistance;
  - ✓ referral and liaison services with industry facilities and services;
  - ✓ liaison services to and among communities, production companies, and government agencies;
  - ✓ augmented outreach; and,
  - ✓ timely and accurate information to production companies, the local community, governmental entities, and the California Film Commission;
- Provide film liaison and location services, including photography of locations;
- Provide service and support to each production company from the initial contact to the close of the production, including problem solving on film related matters;
- Act as a liaison between production companies and all levels of government, including the facilitation of permitting;
- Network with regional and state organizations related to filming;
- Only use the title of Inyo County Film Commissioner when acting in an official capacity pursuant to this agreement, and never for personal gain; and,
- Refrain from taking positions or engaging in activities, in an official capacity, contrary to the established policies of the County of Inyo or which might otherwise bring discredit to the County.

In addition, the Contractor shall:

1. Develop, maintain, and distribute local available crew lists in written and electronic form;
2. Develop, maintain, and distribute a local resources database, including photography of locations throughout all regions of the County, in written and electronic form;
3. Develop, maintain and distribute a current local production guide in written and electronic form; and,
4. Create and have published at least four (4) articles for the local and/or national and/or international media.

With regard to the crew lists, resources database, and production guide noted above, the Contractor will be required to provide these materials in an electronic format acceptable to the County so that the material may be hosted on the County website. In addition, if the material is to be hosted on another website, the website must utilize software approved by the Inyo County Information Services Director.

## **Section II. Administrative Services**

The Contractor is responsible for providing for all administrative functions necessary to support the Inyo County Film Commission, including:

1. Maintaining physical office space, including a telephone line and answering machine or service, and payment of all utility costs;
2. Maintaining and, as appropriate, publicizing:
  - a. a physical mailing address or Post Office Box;
  - b. a cellular telephone;
  - c. an e-mail account; and,
  - d. an internet-based photo hosting service
3. Arranging for clerical support, and any other personal contract services that may be necessary to support the duties and responsibilities of the Film Commissioner
4. Providing all office supplies and, as necessary, photocopying and facsimile transmittal services

In addition, the Contractor shall maintain an active membership in FLICS, and attend between two (2) and four (4) FLICS membership meetings during the term of the contract. Attendance may be in person or via teleconference. The Contractor is responsible for preparing, maintaining, and administering all notifications and paperwork to the California Film Commission necessary to designate the Contractor as the Inyo Film Commissioner.

Furthermore, as directed during the course of this contract, the Contractor may be required to research and work with County staff to evaluate and make a recommendation to the Inyo County Board of Supervisors regarding the feasibility of modifying the County's film permit requirements, including the levying of fees to support the Inyo County Film Commission.

If the County's film permit requirements are modified, the Contractor will be expected to implement and administer the County film permit process for non-County facilities and properties, as directed. If adopted, implementation and administration of the modified film permit may include but not be limited to:

- Publicizing the need for a County film permit;
- Determining the applicability of the County film permit requirements and associated fee schedule to specific filming activities;
- Ensuring all filming activities subject to the film permit requirements apply for a County film permit;
- Working with film permit applicants to ascertain the information necessary for the Film Commissioner to prepare a film permit, including the appropriate(s) fee for the filming activity in question, for submission to the County;
- Promptly notifying the County office responsible for finalizing film permits when a film permit has been prepared for submission; and,
- Preparing a monthly compilation of all film permits prepared by the Film Commissioner, to be submitted to the County with the Contractor's monthly invoice for payment of services.

### **Section III. Reporting**

The Contractor shall keep the County Administrator or his designee, and the Inyo County Board of Supervisors apprised of its activities and accomplishments in the performance of the Agreement. At a minimum, the Contractor shall:

1. Within 30-days of execution of the Agreement for the provision of Film Commissioner Services, the Contractor shall prepare all notifications and paperwork required by the California Film Commission necessary to designate the Contractor as the Inyo Film Commissioner. These documents shall be transmitted to the Office of the County Administrator for review and approval in advance of their submittal to the California Film Commission and, if necessary, for submittal to the California Film Commission by the County. Any subsequent modifications that may be required to this documentation will be processed in the same manner.
2. As soon as practicable, but no later than seven (7) days of receipt, the Contractor shall transmit to the Office of the County Administrator any notices or other communications the Contractor receives from the California Film Commission.
3. Within 60-days of execution of the Agreement for the provision of Film Commissioner Services, the Contractor shall submit to the Office of the County Administrator, in paper and electronic form, the local crew lists, local production guide and local resources database, including photography of locations throughout all regions of the County, that the Contractor is required to develop, maintain and distribute under the terms of this agreement. These products will become property of the County, and must be submitted in an electronic format acceptable to the County for viewing, reproduction and posting to a County web site. As part of their submittal, the Contractor must identify all physical and electronic locations where these resources are available.
4. As needed, and at least once every 12 months and one (1) month prior to the expiration of the Agreement for the provision of Film Commissioner Services, the Contractor shall update the local crew lists, local production guide and local resources database, including photography of locations throughout all regions of the County, and transmit this information to the County as required in item 3 above.
5. Copies of all articles generated by the Contractor and published by local and/or national and/or international media will be transmitted to the Office of the County Administrator with the Contractor's next monthly invoice for services;
6. Make at least two (2) Verbal Reports a year, once in April and once in October, to the Board of Supervisors during the course of this contract. The Contractor is encouraged to make additional Verbal Reports to the Board of Supervisors as may be warranted based on filming activity in the County. The Contractor will be responsible for contacting the Assistant Board Clerk to make arrangements to be placed on the Board of Supervisors' agenda.
7. In addition to the two (2) Verbal Reports required in item 6 above, the Contractor shall prepare and present, in person, two (2) Written Reports a year to the Board of Supervisors. The Written Reports shall be submitted to the County Administrator, to be agendaized for an upcoming Board of Supervisors' meeting, no later than June 1<sup>st</sup> and January 1<sup>st</sup> of each year during the term of the Agreement for the provision of Film Commissioner Services.

8. During the last year of the Agreement, the Written Reports shall be prepared and submitted no later than November 1st in lieu of the January 1st deadline, and May 1<sup>st</sup> in lieu of the June 1<sup>st</sup> deadline to facilitate the County's consideration of any contract extension or renewal. At a minimum, the Written Reports must include:
- a. A summary of the Contractor's activities and accomplishments relative to carrying-out the duties and responsibilities of Inyo County Film Commissioner;
  - b. A tally, by type of production (e.g., major motion picture, minor film, commercial, still photography or other categories deemed meaningful by the Film Commissioner) since execution of the Agreement or since submittal of the last Written Report of:
    - i. production requests received by the Contractor;
    - ii. production contacts initiated by the Contractor; and,
    - iii. (if applicable) County Film Permits prepared by the Contractor;
  - c. Identification and itemization, by category, of all productions filmed in Inyo County since execution of the Agreement or since submittal of the last Written Report. For each production identified, the Contractor shall provide their best estimate as to:
    - i. The number of out-of-county personnel involved in the production;
    - ii. The number of hotel/motel room nights encumbered by the production, and the estimated value;
    - iii. The number of local residents directly employed by the production, and the estimated aggregate compensation of those employed; and,
    - iv. The number and types of local businesses providing goods or services to the production, and the estimated aggregate value of the goods or services;
  - d. Discussion of specific marketing efforts including copies of tear sheets, copies of web-pages, identification of events attended, and, photos of any Contractor exhibits or displays at attended events;
  - e. Copies of the current local crew list, current local production guide, and current local resources database, including photography of locations throughout all regions of the County; and,
  - f. Copies of all Contractor-generated articles published since the last written report.

The parties agree that it would be impracticable and extremely difficult to ascertain the amount of actual damages caused by a material breach of these reporting requirements. Therefore, the parties agree that, in the event that Contractor fails to comply with these reporting requirements and associated deadlines, Contractor shall pay County, as liquidated damages, the amount of Contractor's monthly fee, as established in the Fee Schedule of the Agreement for the provision of Film Commissioner Services, for each failure to comply, which amount will be deducted from amounts due the Contractor.



#### Section IV. Additional Marketing Activities

In addition to marketing the County as a filming location through active participation in FLICS and its California Location Request Service and creating articles for the local, national, and/or international media, the Contractor may perform, and be compensated separately for, additional marketing activities identified in the Contractor's proposal and associated budget, and agreed to in the Fee Schedule included in the Agreement for the provision of Film Commissioner Services. Separately compensated marketing activities may include but are not limited to:

1. If the Film Commission web content will be hosted on the County website, the Contract may be asked and compensated to develop content beyond the crew lists, local resources database, location photographs, production guide, articles described in Section I.
2. If the web content will not be hosted on the County website, the Film Commissioner may be asked to and compensated for developing and maintaining an interactive Inyo County Film Commission website. In developing and maintaining any such website, the Contractor must:
  - a. Register Inyo County as the owner of the domain name for the web site, and provide the County's Information Services Director with the information necessary to maintain the registration;
  - b. Develop the web site using software specified by the County's Information Services Director;
  - c. Host the web site on a server to specified or approved by the County's Information Services Director and to which the County's Information Services staff has access; and,
  - d. Provide back-up electronic copies of all web site content to the Information Services Director. Electronic copies of all subsequent updates to the web site must be transmitted to the County's Information Services Director within 14-days of implementation.

Any payment for such website development and maintenance services performed by the Contractor is dependent on the Contractor's adherence to these requirements.

3. Attend appropriate industry events, and maintain a professional and attractive presence at industry trade shows by engaging the use of creative booth space and collateral material (e.g., artwork, hand-outs, etc.), including the COLA awards dinner and show and/or the Association of Film Commissions International (AFCI) Locations Show.

All resource materials and promotional materials developed in conjunction with this Scope of Work, including but not limited to the Inyo County Film Commission web-site, domain name, artwork and hand-outs distributed at industry events, local crew lists, local production guide, and local resources database (including photography of locations throughout all regions of the County), in written and electronic form, shall:

- A. Identify the Office of the County Administrator as the venue where members of the film industry and the community can register compliments or complaints regarding the provision of Film Commissioner services, and provide the telephone number and e-mail address for the Office of the County Administrator for this purpose.
- B. Become the property of the County of Inyo.

## ATTACHMENT B

### AGREEMENT BETWEEN COUNTY OF INYO AND Chris Langley FOR THE PROVISION OF Film Commissioner SERVICES

#### TERM:

FROM: July 1, 2018

TO: June 30, 2021

#### SCHEDULE OF FEES:

##### Section I. General Duties & Responsibilities, Administrative Services, Reporting

In consideration for the services and work identified in Section I. General Duties & Responsibilities, Section II. Administrative Services, and Section III. Reporting of Attachment A: Scope of Work, the contractor shall be paid a flat fee of:

- \$2,500.00 per month for the period of July 1, 2018 through June 30, 2021

##### Section II. Marketing Activities

For the specific marketing activities the Contractor is required to perform, and identified in Section IV. Marketing Activities of Attachment A: Scope of Work, the contractor shall be paid the actually cost of the specific activity, documented by paid receipts, in an amount not to exceed the amount identified below for each activity:

1. If, the Film Commission web content is not hosted on the County website, and the Film Commissioner is asked to develop and maintain an interactive Inyo County Film Commission website pursuant to Attachment A: Section IV. 2.:
  - \$3,000.00 for the development of the website and \$1,000 per year for its maintenance.
2. Attend appropriate industry events, and maintaining a professional and attractive presence at industry trade shows by engaging the use of creative booth space and collateral material (e.g., artwork, hand-outs, etc.), including the COLA awards dinner and show and/or the Association of Film Commissions International (AFCI) Locations Show:
  - \$1,200.00 for the period July 1, 2018 through June 30, 2019;
  - \$1,200.00 for the period July 1, 2019 through June 30, 2020;
  - \$1,200.00 for the period July 1, 2020 through June 30, 2021.

##### Section III. Travel & Per Diem

The Contractor's travel and per diem expense shall be paid in accordance with Section 3. Paragraph B. of this Agreement. These costs include all mileage, lodging and food expenses associated with all of the general services and work requested by the County in this Agreement, as well as the specific marketing activities requested by the County in this Agreement.

The Contractor's travel and per diem expense reimbursement shall not exceed:

- \$3,600.00 for the period July 1, 2018 through June 30, 2019;
- \$3,600.00 for the period July 1, 2019 through June 30, 2020;
- \$3,600.00 for the period July 1, 2020 through June 30, 2021.

The provisions of Section 3. Paragraph B. of this Agreement notwithstanding, due to the often times spontaneous nature of the services and work being performed, the Contractor is pre-approved to incur travel and per diem expenses in an amount not to exceed:

- \$3,600.00 for the period July 1, 2018 through June 30, 2019;
- \$3,600.00 for the period July 1, 2019 through June 30, 2020;
- \$3,600.00 for the period July 1, 2020 through June 30, 2021.

**ATTACHMENT C**

**AND** **AGREEMENT BETWEEN COUNTY OF INYO**  
**Chris Langley**  
**FOR THE PROVISION OF** Film Commissioner **SERVICES**

**TERM:**

**FROM:** July 1, 2018 **TO:** June 30, 2021

**SEE ATTACHED INSURANCE PROVISIONS**

**Specifications 1**  
**Insurance Requirements for Most Contracts**  
**(Not for Professional Services or Construction Contracts)**

Contractor shall 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 hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

**Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

***Additional Insured Status***

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

### ***Primary Coverage***

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

### ***Waiver of Subrogation***

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

### ***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 the Entity.

### ***Verification of Coverage***

Contractor shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

### ***Special Risks or Circumstances***

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 26<sup>th</sup> day of June 2018 an order was duly made and entered as follows:

*CAO-Film  
Commissioner –  
Chris Langley  
Contract*

Moved by Supervisor Griffiths and seconded by Supervisor Pucci to approve a contract between the County of Inyo and Chris Langley for the provision of Film Commissioner services on behalf of the County, for the period of July 1, 2018 through June 30, 2021 in a total amount not to exceed \$109,400, subject to the Board's approval of future County budgets, and authorize the County Administrator to sign contingent on all appropriate signatures being obtained. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 26<sup>th</sup>  
Day of June, 2018



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisor

By: \_\_\_\_\_

| Routing   |
|---|
|   |
| CC<br>Purchasing<br>Personnel<br>Auditor<br>CAO X<br>Other:<br>DATE: July 6, 2018 |



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

14

X Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator – Film Commissioner

**FOR THE BOARD MEETING OF:** June 26, 2018

**SUBJECT:** Film Commissioner Services

**DEPARTMENTAL RECOMMENDATION:**

Request your Board consider a contract between the County of Inyo and Chris Langley for the provision Film Commissioner on behalf of the County, for the period of July 1, 2018, June 30, 2021 in a total amount not to exceed \$109,400 subject to the approval of future County Budgets, and authorize the County Administrator to sign contingent on all signatures being obtained.

**SUMMARY DISCUSSION:**

On January 16, 2018, your Board reviewed the history of the Inyo County's Film Commission structure and considered whether it wanted to issue a Request For Proposals for the continuation of contracted Film Commissioner Services. Your Board expressed its satisfaction with the current structure for provision of Film Commissioner Services, and indicated its desire to have an opportunity to consider a new contract with Chris Langley rather than undertake an RFP process. The attached contract, presented today for consideration by your Board, implements the direction provided by your Board in January, and reflects minor modifications requested by the Contractor, or recommended by staff.

**OTHER AGENCY INVOLVEMENT:**

The cost of the Film Commissioner Services contract is funded through the County General Fund without assistance from other local agencies.

**FINANCING:**

If approved, the contract will be subject to funding being appropriated in the Fiscal Year 2018-2019 County Budget in Advertising County Resources (011400), in the Inyo County Film Commission object code (5535), in subsequent County Budgets. The Fiscal Year 2018-2019 Preliminary County Budget, adopted by your Board last week, includes funding for this contract until the Fiscal Year 2018-2019 Final Budget is approved later this summer.



**APPROVALS**

|                                       |   |
|---------------------------------------|---|
| COUNTY COUNSEL:                       | AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)<br><br>Approved: <u>yes</u> Date <u>6/19/18</u> |
| AUDITOR/CONTROLLER:                   | ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)<br><br>Approved: <u>yes</u> Date <u>6-19-18</u>                              |
| PERSONNEL DIRECTOR:<br><br><u>N/A</u> | PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)<br><br>Approved: _____ Date _____   |

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)  
(The Original plus 20 copies of this document are required)



Date: 06-19-2018

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Chris Langley  
**FOR THE PROVISION OF** Film Commissioner **SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Film Commissioner services of Chris Langley of Lone Pine, California (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Kevin Carunchio whose title is: County Administrative Officer. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from July 1, 2018 to June 30, 2021 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. County shall reimburse Contractor for travel expenses and per diem which Contractor incurs in providing services and work requested by County under this Agreement. Contractor shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Contractor for approval to incur travel and per diem expenses shall be submitted to Kevin Carunchio whose title is: County Administrative Officer. Travel and per diem expenses will be reimbursed in the same amount and to the same extent as County reimburses its permanent status employees for such expenses. County reserves the right to deny reimbursement to Contractor for travel or per diem expenses which are either in excess of the amounts that may be paid to County's permanent status employees, or which are incurred by the Contractor without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed \$109,400.00\*\*\*\*\* Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Contractor's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Contractor during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

**4. WORK SCHEDULE.**

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

**5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

**6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

**7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

**8. WORKERS' COMPENSATION.**

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than \$1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

**9. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

**10. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

**11. DEFENSE AND INDEMNIFICATION.**

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the Contractor, its agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

**12. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of

this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

### **13. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

### **14. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

### **15. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

### **16. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

### **17. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-three (23) below.

### **18. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by

Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**19. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**20. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**21. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**22. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-three (23) (Amendment).

**23. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**24. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be

required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

|                              |                |
|------------------------------|----------------|
| County of Inyo               |                |
| County Administration _____  | Department     |
| P.O. Drawer N _____          | Address        |
| Independence, CA 93526 _____ | City and State |

Contractor:

|                           |                |
|---------------------------|----------------|
| Chris Langley _____       | Name           |
| P.O. Box 99 _____         | Address        |
| Lone Pine, CA 93545 _____ | City and State |

**25. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO**  
AND Chris Langley  
FOR THE PROVISION OF Film Commissioner SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS 26th DAY OF June, 2018.

**COUNTY OF INYO**

**CONTRACTOR**

By: [Signature]  
Signature

By: [Signature]  
Signature

KEVIN D CARLUCCI  
Type or Print Name

CHRISTOPHER LANGLEY  
Type or Print Name

Dated: 06-26-2018

Dated: 6/21/18

APPROVED AS TO FORM AND LEGALITY:

[Signature]  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Chris Langley  
**FOR THE PROVISION OF** Film Commissioner **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS 26th DAY OF June, 2018.

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By: [Signature]  
Signature  
KEVIN D CARROLL  
Type or Print Name

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Signature  
CHRISTOPHER LANGLEY  
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Dated: 06-26-2018

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[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

[Signature]  
County Risk Manager

## ATTACHMENT A

### AGREEMENT BETWEEN COUNTY OF INYO AND Chris Langley FOR THE PROVISION OF Film Commissioner SERVICES

#### TERM:

FROM: July 1, 2018

TO: June 30, 2021

#### SCOPE OF WORK:

##### Section I. General Duties & Responsibilities

The Contractor shall act in the capacity of Inyo County Film Commissioner. As the Inyo County Film Commissioner, the Contractor must perform the duties necessary for County to maintain a formal relationship with the California Film Commission, and ensure the County's continued participation in the California Film Commission's *Film Liaisons In California, Statewide* (FLICS) Program. These duties include, but are not limited to:

- A. Actively working to attract film production into all areas of the County;
- B. Responding to production requests in a timely manner, not to exceed one week from the date of initial inquiry; and,
- C. Serving as a liaison between the film industry and the County and the community, including public and private landowners and other public agencies in the region.

In carrying out these duties, the Contractor shall regularly and routinely publicize contact information for the Office of the County Administrator as the venue where members of the film industry and the community can register compliments or complaints regarding the provision of Film Commissioner services. At a minimum, this information shall be included in the local crew lists, production guide, and resources database that the Contractor is required to develop, maintain, and distribute (in paper and electronic form acceptable to the County), and on any web site the Contractor develops, maintains, or operates in conjunction with these services.

In performance of these duties, the Contractor shall:

- Maintain a working knowledge of the County and local business and government practices;
- Stay informed on production issues in Inyo County communities and convey this information to producers;
- Serve as an experienced trouble shooter for producers and the communities in which they work;
- Know how to secure permission to film on a variety of properties within the County;
- Be familiar with potential filming locations within the County;
- Remain sensitive to the needs of the communities within the County;

- Never solicit or accept fees, payments, donations, or other contributions for the provision of Film Commissioner services or on behalf of any entity or organization unless so authorized pursuant to and in conjunction with the County’s film permit requirements;
- Adhere to the FLICS Code of Responsibilities, including avoiding actual or apparent conflicts of interest between the official duties and services provided and private financial interests, as well as the provision of:
  - ✓ location scouting assistance;
  - ✓ referral and liaison services with industry facilities and services;
  - ✓ liaison services to and among communities, production companies, and government agencies;
  - ✓ augmented outreach; and,
  - ✓ timely and accurate information to production companies, the local community, governmental entities, and the California Film Commission;
- Provide film liaison and location services, including photography of locations;
- Provide service and support to each production company from the initial contact to the close of the production, including problem solving on film related matters;
- Act as a liaison between production companies and all levels of government, including the facilitation of permitting;
- Network with regional and state organizations related to filming;
- Only use the title of Inyo County Film Commissioner when acting in an official capacity pursuant to this agreement, and never for personal gain; and,
- Refrain from taking positions or engaging in activities, in an official capacity, contrary to the established policies of the County of Inyo or which might otherwise bring discredit to the County.

In addition, the Contractor shall:

1. Develop, maintain, and distribute local available crew lists in written and electronic form;
2. Develop, maintain, and distribute a local resources database, including photography of locations throughout all regions of the County, in written and electronic form;
3. Develop, maintain and distribute a current local production guide in written and electronic form; and,
4. Create and have published at least four (4) articles for the local and/or national and/or international media.

With regard to the crew lists, resources database, and production guide noted above, the Contractor will be required to provide these materials in an electronic format acceptable to the County so that the material may be hosted on the County website. In addition, if the material is to be hosted on another website, the website must utilize software approved by the Inyo County Information Services Director.

**Section II. Administrative Services**

The Contractor is responsible for providing for all administrative functions necessary to support the Inyo County Film Commission, including:

1. Maintaining physical office space, including a telephone line and answering machine or service, and payment of all utility costs;
2. Maintaining and, as appropriate, publicizing:
  - a. a physical mailing address or Post Office Box;
  - b. a cellular telephone;
  - c. an e-mail account; and,
  - d. an internet-based photo hosting service
3. Arranging for clerical support, and any other personal contract services that may be necessary to support the duties and responsibilities of the Film Commissioner
4. Providing all office supplies and, as necessary, photocopying and facsimile transmittal services

In addition, the Contractor shall maintain an active membership in FLICS, and attend between two (2) and four (4) FLICS membership meetings during the term of the contract. Attendance may be in person or via teleconference. The Contractor is responsible for preparing, maintaining, and administering all notifications and paperwork to the California Film Commission necessary to designate the Contractor as the Inyo Film Commissioner.

Furthermore, as directed during the course of this contract, the Contractor may be required to research and work with County staff to evaluate and make a recommendation to the Inyo County Board of Supervisors regarding the feasibility of modifying the County's film permit requirements, including the levying of fees to support the Inyo County Film Commission.

If the County's film permit requirements are modified, the Contractor will be expected to implement and administer the County film permit process for non-County facilities and properties, as directed. If adopted, implementation and administration of the modified film permit may include but not be limited to:

- Publicizing the need for a County film permit;
- Determining the applicability of the County film permit requirements and associated fee schedule to specific filming activities;
- Ensuring all filming activities subject to the film permit requirements apply for a County film permit;
- Working with film permit applicants to ascertain the information necessary for the Film Commissioner to prepare a film permit, including the appropriate(s) fee for the filming activity in question, for submission to the County;
- Promptly notifying the County office responsible for finalizing film permits when a film permit has been prepared for submission; and,
- Preparing a monthly compilation of all film permits prepared by the Film Commissioner, to be submitted to the County with the Contractor's monthly invoice for payment of services.

### **Section III. Reporting**

The Contractor shall keep the County Administrator or his designee, and the Inyo County Board of Supervisors apprised of its activities and accomplishments in the performance of the Agreement. At a minimum, the Contractor shall:

1. Within 30-days of execution of the Agreement for the provision of Film Commissioner Services, the Contractor shall prepare all notifications and paperwork required by the California Film Commission necessary to designate the Contractor as the Inyo Film Commissioner. These documents shall be transmitted to the Office of the County Administrator for review and approval in advance of their submittal to the California Film Commission and, if necessary, for submittal to the California Film Commission by the County. Any subsequent modifications that may be required to this documentation will be processed in the same manner.
2. As soon as practicable, but no later than seven (7) days of receipt, the Contractor shall transmit to the Office of the County Administrator any notices or other communications the Contractor receives from the California Film Commission.
3. Within 60-days of execution of the Agreement for the provision of Film Commissioner Services, the Contractor shall submit to the Office of the County Administrator, in paper and electronic form, the local crew lists, local production guide and local resources database, including photography of locations throughout all regions of the County, that the Contractor is required to develop, maintain and distribute under the terms of this agreement. These products will become property of the County, and must be submitted in an electronic format acceptable to the County for viewing, reproduction and posting to a County web site. As part of their submittal, the Contractor must identify all physical and electronic locations where these resources are available.
4. As needed, and at least once every 12 months and one (1) month prior to the expiration of the Agreement for the provision of Film Commissioner Services, the Contractor shall update the local crew lists, local production guide and local resources database, including photography of locations throughout all regions of the County, and transmit this information to the County as required in item 3 above.
5. Copies of all articles generated by the Contractor and published by local and/or national and/or international media will be transmitted to the Office of the County Administrator with the Contractor's next monthly invoice for services;
6. Make at least two (2) Verbal Reports a year, once in April and once in October, to the Board of Supervisors during the course of this contract. The Contractor is encouraged to make additional Verbal Reports to the Board of Supervisors as may be warranted based on filming activity in the County. The Contractor will be responsible for contacting the Assistant Board Clerk to make arrangements to be placed on the Board of Supervisors' agenda.
7. In addition to the two (2) Verbal Reports required in item 6 above, the Contractor shall prepare and present, in person, two (2) Written Reports a year to the Board of Supervisors. The Written Reports shall be submitted to the County Administrator, to be agendaized for an upcoming Board of Supervisors' meeting, no later than June 1<sup>st</sup> and January 1<sup>st</sup> of each year during the term of the Agreement for the provision of Film Commissioner Services.

8. During the last year of the Agreement, the Written Reports shall be prepared and submitted no later than November 1st in lieu of the January 1st deadline, and May 1<sup>st</sup> in lieu of the June 1<sup>st</sup> deadline to facilitate the County's consideration of any contract extension or renewal. At a minimum, the Written Reports must include:
  - a. A summary of the Contractor's activities and accomplishments relative to carrying-out the duties and responsibilities of Inyo County Film Commissioner;
  - b. A tally, by type of production (e.g., major motion picture, minor film, commercial, still photography or other categories deemed meaningful by the Film Commissioner) since execution of the Agreement or since submittal of the last Written Report of:
    - i. production requests received by the Contractor;
    - ii. production contacts initiated by the Contractor; and,
    - iii. (if applicable) County Film Permits prepared by the Contractor;
  - c. Identification and itemization, by category, of all productions filmed in Inyo County since execution of the Agreement or since submittal of the last Written Report. For each production identified, the Contractor shall provide their best estimate as to:
    - i. The number of out-of-county personnel involved in the production;
    - ii. The number of hotel/motel room nights encumbered by the production, and the estimated value;
    - iii. The number of local residents directly employed by the production, and the estimated aggregate compensation of those employed; and,
    - iv. The number and types of local businesses providing goods or services to the production, and the estimated aggregate value of the goods or services;
  - d. Discussion of specific marketing efforts including copies of tear sheets, copies of web-pages, identification of events attended, and, photos of any Contractor exhibits or displays at attended events;
  - e. Copies of the current local crew list, current local production guide, and current local resources database, including photography of locations throughout all regions of the County; and,
  - f. Copies of all Contractor-generated articles published since the last written report.

The parties agree that it would be impracticable and extremely difficult to ascertain the amount of actual damages caused by a material breach of these reporting requirements. Therefore, the parties agree that, in the event that Contractor fails to comply with these reporting requirements and associated deadlines, Contractor shall pay County, as liquidated damages, the amount of Contractor's monthly fee, as established in the Fee Schedule of the Agreement for the provision of Film Commissioner Services, for each failure to comply, which amount will be deducted from amounts due the Contractor.

#### **Section IV. Additional Marketing Activities**

In addition to marketing the County as a filming location through active participation in FLICS and its California Location Request Service and creating articles for the local, national, and/or international media, the Contractor may perform, and be compensated separately for, additional marketing activities identified in the Contractor's proposal and associated budget, and agreed to in the Fee Schedule included in the Agreement for the provision of Film Commissioner Services. Separately compensated marketing activities may include but are not limited to:

1. If the Film Commission web content will be hosted on the County website, the Contract may be asked and compensated to develop content beyond the crew lists, local resources database, location photographs, production guide, articles described in Section I.
2. If the web content will not be hosted on the County website, the Film Commissioner may be asked to and compensated for developing and maintaining an interactive Inyo County Film Commission website. In developing and maintaining any such website, the Contractor must:
  - a. Register Inyo County as the owner of the domain name for the web site, and provide the County's Information Services Director with the information necessary to maintain the registration;
  - b. Develop the web site using software specified by the County's Information Services Director;
  - c. Host the web site on a server to specified or approved by the County's Information Services Director and to which the County's Information Services staff has access; and,
  - d. Provide back-up electronic copies of all web site content to the Information Services Director. Electronic copies of all subsequent updates to the web site must be transmitted to the County's Information Services Director within 14-days of implementation.Any payment for such website development and maintenance services performed by the Contractor is dependent on the Contractor's adherence to these requirements.
3. Attend appropriate industry events, and maintain a professional and attractive presence at industry trade shows by engaging the use of creative booth space and collateral material (e.g., artwork, hand-outs, etc.), including the COLA awards dinner and show and/or the Association of Film Commissions International (AFCI) Locations Show.

All resource materials and promotional materials developed in conjunction with this Scope of Work, including but not limited to the Inyo County Film Commission web-site, domain name, artwork and hand-outs distributed at industry events, local crew lists, local production guide, and local resources database (including photography of locations throughout all regions of the County), in written and electronic form, shall:

- A. Identify the Office of the County Administrator as the venue where members of the film industry and the community can register compliments or complaints regarding the provision of Film Commissioner services, and provide the telephone number and e-mail address for the Office of the County Administrator for this purpose.
- B. Become the property of the County of Inyo.



## ATTACHMENT B

### AGREEMENT BETWEEN COUNTY OF INYO AND Chris Langley FOR THE PROVISION OF Film Commissioner SERVICES

#### TERM:

FROM: July 1, 2018

TO: June 30, 2021

#### SCHEDULE OF FEES:

##### Section I. General Duties & Responsibilities, Administrative Services, Reporting

In consideration for the services and work identified in Section I. General Duties & Responsibilities, Section II. Administrative Services, and Section III. Reporting of Attachment A: Scope of Work, the contractor shall be paid a flat fee of:

- \$2,500.00 per month for the period of July 1, 2018 through June 30, 2021

##### Section II. Marketing Activities

For the specific marketing activities the Contractor is required to perform, and identified in Section IV. Marketing Activities of Attachment A: Scope of Work, the contractor shall be paid the actually cost of the specific activity, documented by paid receipts, in an amount not to exceed the amount identified below for each activity:

1. If, the Film Commission web content is not hosted on the County website, and the Film Commissioner is asked to develop and maintain an interactive Inyo County Film Commission website pursuant to Attachment A: Section IV. 2.:
  - \$3,000.00 for the development of the website and \$1,000 per year for its maintenance.
2. Attend appropriate industry events, and maintaining a professional and attractive presence at industry trade shows by engaging the use of creative booth space and collateral material (e.g., artwork, hand-outs, etc.), including the COLA awards dinner and show and/or the Association of Film Commissions International (AFCI) Locations Show:
  - \$1,200.00 for the period July 1, 2018 through June 30, 2019;
  - \$1,200.00 for the period July 1, 2019 through June 30, 2020;
  - \$1,200.00 for the period July 1, 2020 through June 30, 2021.

##### Section III. Travel & Per Diem

The Contractor's travel and per diem expense shall be paid in accordance with Section 3. Paragraph B. of this Agreement. These costs include all mileage, lodging and food expenses associated with all of the general services and work requested by the County in this Agreement, as well as the specific marketing activities requested by the County in this Agreement.

The Contractor's travel and per diem expense reimbursement shall not exceed:

- \$3,600.00 for the period July 1, 2018 through June 30, 2019;
- \$3,600.00 for the period July 1, 2019 through June 30, 2020;
- \$3,600.00 for the period July 1, 2020 through June 30, 2021.

The provisions of Section 3. Paragraph B. of this Agreement notwithstanding, due to the often times spontaneous nature of the services and work being performed, the Contractor is pre-approved to incur travel and per diem expenses in an amount not to exceed:

- \$3,600.00 for the period July 1, 2018 through June 30, 2019;
- \$3,600.00 for the period July 1, 2019 through June 30, 2020;
- \$3,600.00 for the period July 1, 2020 through June 30, 2021.

**ATTACHMENT C**

**AND** **AGREEMENT BETWEEN COUNTY OF INYO**  
Chris Langley  
**FOR THE PROVISION OF** Film Commissioner **SERVICES**

**TERM:**

**FROM:** July 1, 2018 **TO:** June 30, 2021

**SEE ATTACHED INSURANCE PROVISIONS**

**Specifications 1**  
**Insurance Requirements for Most Contracts**  
**(Not for Professional Services or Construction Contracts)**

Contractor shall 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 hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

**Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

***Additional Insured Status***

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

### ***Primary Coverage***

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

### ***Waiver of Subrogation***

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

### ***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 the Entity.

### ***Verification of Coverage***

Contractor shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

### ***Special Risks or Circumstances***

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.





# County of Inyo



## County Administrator - Personnel

### CONSENT - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Keri Oney

**SUBJECT:** Approval of Contract for Legal Services-General Labor and Employment Advice and Representation

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**RECOMMENDED ACTION:**

Request Board approve the contract between the County of Inyo and Atkinson, Andelson, Loya, Ruud & Romo for the provision of Legal Services-General Labor and Employment Advice, in the amount of \$320,000 for the term of July 1, 2022 through June 30, 2023, contingent upon the Board's adoption of the Fiscal Year 2022-2023 Budget, and authorize the Chairperson to sign the contract and HIPPA Business Associate Agreement, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

The firm provides the County with advice and representation in specialized employment and labor law matters. It is recommended that the County contract with Atkinson, Andelson, Loya, Ruud & Romo for these legal services.

The County previously had utilized the services of their partner Irma Rodriguez Moisa to provide advice and representation in other employment and labor law matters.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The County could decline to approve the Agreement with Atkinson, Andelson, Loya, Ruud & Romo and attempt to find other legal counsel to assist the County in these matters, or could seek to provide these services through in-house lawyers. Neither alternative is recommended because of the specialized nature of the legal services required.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

This Contract is budgeted in the Fiscal Year 2021-2022 Requested Personnel Budget (010800) in Professional Services (5265).

**ATTACHMENTS:**

1. Atkinson, Andelson, Loya, Ruud & Romo Contract
2. HIPAA Business Associate Agreement

**APPROVALS:**

|              |                               |
|--------------|-------------------------------|
| Darcy Ellis  | Created/Initiated - 6/29/2022 |
| Darcy Ellis  | Approved - 6/29/2022          |
| Keri Oney    | Approved - 6/29/2022          |
| John Vallejo | Approved - 6/29/2022          |
| Amy Shepherd | Final Approval - 6/30/2022    |



**AGREEMENT BETWEEN COUNTY OF INYO  
AND**

---

**FOR THE PROVISION OF LEGAL SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the legal services of \_\_\_\_\_ of \_\_\_\_\_ hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment **A**, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by \_\_\_\_\_ whose title is \_\_\_\_\_. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from \_\_\_\_\_ to \_\_\_\_\_ unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment **B**) for the services and work described in Attachment **A** which are performed by Contractor at the County's request.

B. Travel and per diem. County shall reimburse Contractor for travel expenses and per diem which Contractor incurs in providing services and work requested by County under this Agreement. Contractor shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Contractor for approval to incur travel and per diem expenses shall be submitted to \_\_\_\_\_, whose title is \_\_\_\_\_.

Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment **C**). County reserves the right to deny reimbursement to Contractor for travel or per diem expenses which are either in excess of the amounts that may be paid to under the rates set forth in Attachment **C**, or which are incurred by the Contractor without the prior approval of the County.

C. Incidental Expenses. County shall reimburse Contractor in accordance with the Schedule of Fees (Attachment **B**) for those Incidental Expenses which are specifically identified in the Schedule of Fees and which are necessarily incurred by the Contractor in providing the services and work requested by

County under this Agreement. Reimbursement by County for such Incidental Expenses will be limited to Contractor's actual cost without regard to any administrative or overhead expenses incurred by Contractor in obtaining or utilizing such incidental services or supplies. Reimbursement for actual costs will not exceed the amounts set forth in the Schedule of Fees.

D. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

E. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed \$\_\_\_\_\_ Dollars and \_\_\_\_\_ cents (\$\_\_\_\_\_ ) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

F. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all hours spent by Contractor in performing services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the hours were worked and describe the nature of the work which was performed on each day. Contractor's statement to the County will also include an itemization of any incidental expenses, or travel or per diem expenses which have been approved in advance by County, incurred by Contractor during that period. The itemized statement for incidental expenses, travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

G. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form upon executing this Agreement.

#### **4. WORK SCHEDULE.**

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

## **5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

## **6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. Except for those incidental expenses specifically identified in the Schedule of Fees (Attachment B), County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining items not specifically set forth in the Schedule of Fees (Attachment B), is the sole responsibility and obligation of Contractor.

## **7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

## **8. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment D and with the provisions specified in that attachment.

## **9. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of

County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

#### **10. DEFENSE AND INDEMNIFICATION.**

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

#### **11. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

#### **12. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

#### **13. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

**14. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**15. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**16. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

**17. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**18. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**19. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**20. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**21. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

**22. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**23. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

**COUNTY OF INYO:**

\_\_\_\_\_ Department  
\_\_\_\_\_ Address  
\_\_\_\_\_ City and State

**CONTRACTOR:**

\_\_\_\_\_ Name  
\_\_\_\_\_ Address  
\_\_\_\_\_ City and State

**24. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

# #

**AGREEMENT BETWEEN COUNTY OF INYO  
AND**

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**FOR THE PROVISION OF LEGAL SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
\_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_

By: \_\_\_\_\_  
Signature

Dated: \_\_\_\_\_

\_\_\_\_\_  
Type or Print Name

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGALITY:

\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND**

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**FOR THE PROVISION OF LEGAL SERVICES**

**TERM:**

**FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_

**SCOPE OF WORK:**



**ATTACHMENT B**  
**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND**

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**FOR THE PROVISION OF LEGAL SERVICES**

**TERM:**

**FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_

**SCHEDULE OF FEES:**

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND**

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**FOR THE PROVISION OF LEGAL SERVICES**

**TERM:**

**FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_

**SCHEDULE OF TRAVEL AND PER DIEM PAYMENT**

**ATTACHMENT D**  
**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND**

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**FOR THE PROVISION OF LEGAL SERVICES**

**TERM:**

**FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_

**SEE ATTACHED INSURANCE PROVISIONS**

ATTACHMENT A-1

AGREEMENT BETWEEN COUNTY OF INYO  
AND ATKINSON, ANDELSON, LOYA, RUUD & ROMO  
FOR THE PROVISION OF LEGAL SERVICES

**TERM:**

**FROM: July 1, 2022 TO: June 30, 2023**

*COUNTY OF INYO*  
**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("Agreement") is made by and between the County of Inyo, referred to herein as Covered Entity ("CE"), and IRMA RODRIGUEZ MOISA of Atkinson, Andelson, Loya, Ruud & Romo referred to herein as Business Associate ("BA"). This Agreement is effective as of July 1, 2022 (the "Agreement Effective Date").

**RECITALS**

CE wishes to disclose certain information to BA pursuant to the terms of the contract between BA and the California Institute of Mental Health ("CIMH"), herein referred to as ("Contract"), some of which may constitute Protected Health Information ("PHI") defined below.

CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Agreement.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

**1. Definitions**

- a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
- b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
- g. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

- i. **Privacy Rule** shall mean the HIPM Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual, the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on GE's behalf.
- l. **Security Rule** shall mean the HIPM Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

## 2. Obligations of Business Associate

- a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE (45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)).
- b. **Permitted Disclosures.** BA shall not disclose Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach (42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)).
- c. **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates (42 U.S.C. Section 17935(a)). BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(?); however, this prohibition shall not affect payment by CIMH to BA for services provided pursuant to the Contract.
- d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. (45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)). BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. (42 U.S.C. Section 17931).
- e. **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than ten (10) calendar days after discovery (42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)).
- f. **Business Associate's Agents.** BA shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions

that apply to BA with respect to such PHI and implement the safeguards required by paragraph c above with respect to Electronic PHI (45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)). **BA** shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).

- g. **Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE (45 C.F.R. Section 164.504(e)(2)(ii)(F)).
- i. **Accounting Rights.** Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individuals' authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2.b. of this Agreement [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528].
- j. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any Protected Information that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- k. **Minimum Necessary.** BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. (42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)) **BA** understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- i. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.
- m. **Notification of Breach.** During the term of the Contract, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

- n. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the GE's obligations under the Contract or Agreement or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the GE's obligations under the Contract or Agreement or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- o. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by CE, BA and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether BA has complied with this Agreement; provided, however, that (i) BA and CE shall mutually agree in advance upon the scope, timing and location of such an inspection, and (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access during the course of such inspection. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies and procedures does not relieve BA of its responsibility to comply with this Agreement, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract or Agreement. BA shall notify CE within ten (10) days of learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

### 3. Termination

- a. **Material Breach.** A breach by BA of any provision of this Agreement, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- c. **Effect of Termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2)(I)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.

### 4. Disclaimer

CE makes no warranty or representation that compliance by BA with this Agreement, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

### 5. Amendment

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract or Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Agreement when requested by CE pursuant to this Section or (ii) BA does not enter into an amendment to the Contract or Agreement providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

**6. Assistance in Litigation of Administrative Proceedings**

BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA by the BA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is named adverse party.

**7. No Third-Party Benefich!11 ries**

Nothing express or implied in the Contract or Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

**8. Effect on Contract**

Except as specifically required to implement the purposes of this Agreement, or to the extent inconsistent with this Agreement, all other terms of the Contract shall remain in full force and effect.

**9. Interpretation**

The provisions of this Agreement shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPM, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPM, the HITECH Act, the Privacy Rule and the Security Rule.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Agreement Effective Date.

COVERED ENTITY

BUSINESS ASSOCIATE

County of Inyo

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_





# County of Inyo



## Health & Human Services - First 5

### CONSENT - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Serena Johnson

**SUBJECT:** First 5 and Altrusa International of Eastern Sierra collaboration on the Dolly Parton Imagination Library program

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#### RECOMMENDED ACTION:

Request Board approve the Memorandum of Understanding between the County of Inyo and Altrusa International Foundation of Eastern Sierra, Inc. of Bishop, CA for the provision of Dolly Parton Imagination Library program in an amount not to exceed \$4,538 for the period of July 5, 2022 through July 6, 2023, contingent upon the Board's approval of future budgets, and authorize the First 5 Director to sign, contingent upon all appropriate signatures being obtained.

#### SUMMARY/JUSTIFICATION:

Reading aloud is an important way for a parent to help a baby learn vocabulary and to stimulate a baby's brain cells to grow stronger and develop more fully. Studies of the Dolly Parton Imagination Library program indicate that it promotes change in home literacy environments, children's attitudes towards reading, and early literacy skills. Research shows that children who have access to books in the home have a more positive attitude about reading; this also encourages increased interactions between caregivers and children. This leads to promotion of emerging literacy skills and learning to read in the early grades, which therefore supports future academic success.

Each month, Dolly Parton's Imagination Library mails a high quality, age appropriate book to all registered children, addressed to them, at no cost to the child's family. Dolly Parton's Imagination Library provides the infrastructure of the core program including managing the secure central database for the Book Order System and coordinating book selections and wholesale purchasing. It also incurs the cost of the program's administrative expenses and coordinates the monthly mailings.

The Affiliate Partner, Altrusa International Foundation of Eastern Sierra, is the not-for-profit service association will enter into a Memorandum of Understanding with Dolly Parton's Imagination Library for the purpose of being the entity qualified by the United States Postal Service for non-profit mailing rates. First 5 Inyo County will manage the administrative and financial aspects of the book program.

On November 3, 2020, the Board approved an MOU with Bishop Friends of the Library. Since the book program launched March 2021, 394 children have been registered. Currently, 315 children are active, and 79 have graduated out after age five. Bishop Friends of the Library notified First 5 Inyo County in May 2022 they are terminating their non-profit status. Altrusa International Foundation of Eastern Sierra offered to step up as the

non-profit affiliate to keep the program continuing. Altrusa has been a strong partner since the beginning of the program, promoting registrations at community events, in little-free libraries, and at preschools.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The Board could choose not to approve this MOU, thereby preventing the implementation of Dolly Parton's Imagination Library program in Inyo County.

**OTHER AGENCY INVOLVEMENT:**

Altrusa International of Eastern Sierra Inc. as an Independent Affiliate Partner (501c3)

**FINANCING:**

This expense will be paid out of the First 5 budget (643000) in General Operating (5311). No County General Funds.

**ATTACHMENTS:**

1. Inyo County - Altrusa MOU

**APPROVALS:**

|                    |                              |
|--------------------|------------------------------|
| Serena Johnson     | Created/Initiated - 6/3/2022 |
| Darcy Ellis        | Approved - 6/3/2022          |
| Serena Johnson     | Approved - 6/7/2022          |
| Anna Scott         | Approved - 6/8/2022          |
| Melissa Best-Baker | Approved - 6/9/2022          |
| John Vallejo       | Approved - 6/30/2022         |
| Amy Shepherd       | Approved - 6/30/2022         |
| Anna Scott         | Final Approval - 6/30/2022   |

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF INYO  
ON BEHALF OF ITS CHILDREN AND FAMILIES COMMISSION AND ALTRUSA  
FOR THE PROVISION OF LITERACY PROGRAM SERVICES**

This Memorandum of Understanding (hereafter "MOU") is effective as of the date set forth below, by and between the County of Inyo, on behalf of its Children and Families Commission established pursuant to Health and Safety Code section 130140 (hereafter "First 5" or "Commission"), and Altrusa International Foundation of Eastern Sierra, Inc., a not-for-profit service association with a particular focus on the promotion of literacy (hereafter the "Affiliate Partner") for the provision of the literacy program for Inyo County children from birth to age five (5) under the Dolly Parton's Imagination Library Program (hereafter the "Program"). The Commission and Affiliate Partner are sometimes referred to individually as a "party" and collectively as the "parties."

**BACKGROUND**

Reading aloud is an important way for a parent to help a baby learn vocabulary and to stimulate a baby's brain cells to grow stronger and develop more fully. Studies of the Dolly Parton Imagination Library program indicate the Program promotes changes in home literacy environments, children's attitudes towards reading, and early literacy skills. Research shows access to books in the home supports a child's positive attitude about reading and encourages increased interactions between caregivers and children. This leads to increased emerging literacy skills and learning to read in the early grades supports future academic success.

**RECITALS**

**WHEREAS:**

- a. The Commission has adopted a five (5) year strategic plan to promote the early development and well-being of Inyo County children from prenatal to age five (5); and
- b. The Commission is committed to providing children in Inyo County opportunities to enhance literacy; and
- c. The Commission and the Affiliate Partner are committed to increasing language skills, literacy, and family resiliency by providing books to children ages 0-5; and
- d. The Commission and the Affiliate Partner will work collaboratively to implement the Program; strengthening literacy skills in children and supporting future academic success.

**THEREFORE, the Commission and the Affiliate Partner hereto agree as follows:**

**1. TERM.**

This MOU shall commence on July 5, 2022, and expire one year thereafter. The MOU will be automatically renewed each year unless written notification is provided by either party to the other within sixty days of the annual anniversary of the execution of the MOU.

**2. DESIGNATED REPRESENTATIVE.**

The First 5 Director of the Commission is the authorized representative of the Commission and will administer this MOU. The President of Altrusa International Foundation of Eastern Sierra, Inc. is the authorized representative of the Affiliate Party. Parties shall give advanced notice, in writing, of any change in their designated representative.

**3. COMMISSION DUTIES AND RESPONSIBILITIES.**

- 3.1. The Commission shall secure at its own expense, all personnel required to manage all administrative and financial aspects of the Program. All management shall be conducted by the Commission or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.
- 3.2. The Commission shall secure adequate funding to carry out its obligations under this MOU. The parties understand and agree that this MOU does not require the Affiliate Partner to provide any funding to the Commission.
- 3.3. The Commission shall pay, by the first of each month, the monthly invoice produced by the Program.
- 3.4. The Commission understands that the cost of books and postage is currently approximately \$25 a child per year. The Commission acknowledges that this amount is subject to change. The Commission may leverage other funds to support Program sustainability, and will hold and retain any additional funds acquired to support the program.

**4. ALTRUSA INTERNATIONAL FOUNDATION OF EASTERN SIERRA, INC. DUTIES AND RESPONSIBILITIES.**  
The Affiliate Partner shall:

- 4.1. Enter into a Memorandum of Understanding with the Program designating the Affiliate Partner as the Program’s non-profit affiliate for the limited purpose of being the entity qualified by the United States Postal Service for non-profit mailing rates.
- 4.2. Remain the Program’s designated non-profit affiliate throughout the term of this MOU.

**5. INDEMNIFICATION.**

- 5.1. Definitions. For purposes of this Section 5. “Affiliate Partner” shall include Affiliate Partner, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Affiliate Partner or its subcontractors, in the performance of this MOU. “Commission” shall include Commission, its officers, agents, employees, and volunteers.
- 5.2. Commission shall defend, indemnify, and hold harmless the Affiliate Partner, its elected and appointed councils, boards, officers, agents from and against any and all claims, causes of action, proceedings, penalties, fines, losses, damages, costs, expenses or other liabilities of whatever nature, including, without limitation, settlement costs and reasonable attorney fees, court costs and other expenses incurred in investigation, prosecuting or defending any claim or action, or any threatened claim or action, which is based upon or arises out of or in connection with the intentional or negligent acts or omissions of Commission, or any of Commission’s Officers, agents, employees, contractors or subcontractors. Commission shall not be required to indemnify Affiliate Partner for such loss or damage as is caused by the sole active negligence or willful misconduct of the Affiliate Partner.

**6. GENERAL PROVISIONS.**

- 6.1. This MOU constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior and contemporaneous agreements and understandings of the parties. This MOU may be amended only by written, mutual consent of both parties.
- 6.2. This MOU may be terminated by either party, with or without cause, upon sixty (60) days written notice to the other party. The MOU will automatically terminate if, for any reason, the Affiliate Partner is no longer designated as the Program's non-profit affiliate.

**7. NOTICES.**

Any notice required or permitted to be given under this MOU shall be in writing and shall be served by certified mail, return receipt requested, or personal service upon the other party. When service is by certified mail, service shall be conclusively deemed complete after deposit in the United States mail, postage prepaid, addressed to the party to whom such notice is to be given as hereafter provided.

Notices shall be addressed as follows:

If to the COMMISSION:

First 5 Director  
FIRST 5 INYO County of Inyo  
1360 N. Main Street  
Bishop, CA 93514

If to the AFFILIATE PARTNER:

President  
ALTRUSA INTERNATIONAL FOUNDATION OF EASTERN SIERRA, INC.  
PO Box 1795  
Bishop, CA 93515

- 8. **AUTHORITY.** By signing below, the parties to this MOU represent that they have the authority to enter into this MOU and that they agree to abide by the terms and conditions specified above.
- 9. **INDEPENDENT AFFILIATE PARTNER.** Both parties understand and agree that Affiliate Partner is an independent contractor and that no relationship of employer-employee exists between the Commission and Affiliate Partner. Neither Affiliate Partner nor Affiliate Partner's assigned personnel shall be entitled to any benefits payable to employees of the Commission.
- 10. **GOVERNING LAW.** This MOU is governed and construed in accordance with the laws of the State of California. In the event of a dispute or claim arising out of the MOU, venue shall be in the Superior Court of the State of California for the County of Inyo.
- 11. **INTEGRATION.** This MOU, including the language preceding the MOU and the MOU itself, represents the entire understanding of Affiliate Partner and Commission as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both

written and oral. This MOU may be amended only by written instrument signed by the Commission and Affiliate Partner.

IN WITNESS WHEREOF, the parties have executed this agreement on the date shown next to their respective signatures.

First 5 Inyo County Children and Families Commission

\_\_\_\_\_  
First 5 Director

\_\_\_\_\_  
Date

Altrusa International Foundation of Eastern Sierra, Inc.

*Arden R. Shallaess*  
President

6-1-2022  
Date

APPROVED AS TO FORM

*Christian E. Milovich*  
County Counsel

6.7.2022  
Date



# County of Inyo



## Health & Human Services - Health/Prevention

### CONSENT - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Anna Scott

**SUBJECT:** Contract between the County of Inyo and Dwayne's Friendly Pharmacy

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**RECOMMENDED ACTION:**

Request Board ratify and approve the contract between the County of Inyo and Sabrina Enterprises, Inc., dba Dwayne's Friendly Pharmacy of Bishop, CA, for the provision of pharmaceutical services in an amount not to exceed \$650,000.00 for the period of July 1, 2022 through June 30, 2027, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

As the providers of health care to the Inyo County Jail, the Health and Human Services Public Health and Prevention division is responsible for assuring the medications are available to the inmate population as directed by medical and behavioral health needs. The developed system has been well integrated into procedures of both facilities.

This contract is a result of a competitive process that solicited Request for Proposals (RFP) from interested and qualified entities. Dwayne's Friendly Pharmacy was the sole respondent to the RFP and met the criteria established for providing pharmaceutical services to Inyo County. Dwayne's has been working effectively with Health and Human Services staff both in our Public Health & Prevention and Behavioral Health divisions to provide pharmaceutical services for the past several years.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to approve this contract. Doing so would mean that the HHS Department would purchase medications on a case-by-case basis, which would be extremely costly and would require a restructure of the custody delivery system.

**OTHER AGENCY INVOLVEMENT:**

Inyo County Sheriff and Probation Departments

**FINANCING:**

Health and Mental Health Realignment dollars. This expense will be budgeted in the Health budget (045100), in Professional Services (5265) and in the Mental Health budget (045200), in Support & Care (5501)

**ATTACHMENTS:**

1. Inyo HHS - Dwayne's Pharmaceutical Contract

**APPROVALS:**

|                    |                               |
|--------------------|-------------------------------|
| Anna Scott         | Created/Initiated - 6/17/2022 |
| Darcy Ellis        | Approved - 6/20/2022          |
| Genoa Meneses      | Approved - 6/20/2022          |
| Melissa Best-Baker | Approved - 6/20/2022          |
| Anna Scott         | Approved - 6/21/2022          |
| John Vallejo       | Approved - 6/21/2022          |
| Amy Shepherd       | Approved - 6/21/2022          |
| Anna Scott         | Final Approval - 6/23/2022    |



**AGREEMENT BETWEEN COUNTY OF INYO**

**AND Sabrina Enterprises, Inc., DBA Dwayne's Friendly Pharmacy**  
**FOR THE PROVISION OF Pharmaceutical SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the pharmaceutical services of Sabrina Enterprises, Inc., DBA Dwayne's Friendly Pharmacy of Bishop, CA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Marilyn Mann, whose title is: HHS Director (or designee). Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from 7/1/2022 to 6/30/2027 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed six hundred and fifty thousand Dollars

(\$ 650,000.00) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

#### **4. WORK SCHEDULE.**

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

#### **5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

## **6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

## **7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

## **8. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

## **9. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

**10. DEFENSE AND INDEMNIFICATION.**

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

**11. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

**12. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

**13. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

**14. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**15. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**16. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

**17. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**18. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**19. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**20. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**21. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

**22. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**23. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

|                                  |                |
|----------------------------------|----------------|
| County of Inyo                   |                |
| <u>Health and Human Services</u> | Department     |
| <u>PO Drawer H</u>               | Address        |
| <u>Independence, CA 93526</u>    | City and State |

|                                   |                |
|-----------------------------------|----------------|
| Contractor:                       |                |
| <u>Dwayne's Friendly Pharmacy</u> | Name           |
| <u>644 W. Line St.</u>            | Address        |
| <u>Bishop, CA 93514</u>           | City and State |

**24. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND Sabrina Enterprises, Inc., DBA Dwayne's Friendly Pharmacy**  
**FOR THE PROVISION OF Pharmaceutical SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Print or Type Name

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

County Counsel

\_\_\_\_\_

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_

Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_

County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND Sabrina Enterprises, Inc., DBA Dwayne's Friendly Pharmacy**  
**FOR THE PROVISION OF Pharmaceutical SERVICES**

**TERM:**

**FROM:** July 1, 2022      **TO:** June 30, 2027

**SCOPE OF WORK:**

1. Provide pharmaceutical services to Inyo County for patients in custody at the Inyo County Jail and/or Juvenile Facilities.
2. Provide annual inspections to the facilities and/ or annual meeting with County staff.
3. Monitor all patient medications for proper dosage, potential side effects, contraindicated medications and possible drug interactions.
4. Record patient allergies or drug sensitivities and properly monitor these records to ensure patient safety.
5. Ensure the delivery system considers custody security issues.
6. Follow the established procedure for obtaining weekly medications (week period starts Thursday to the following Wednesday):
  - a.) The weekly request for the Inyo County Jail Facility will be submitted to the Contractor via FAX, every Thursday. If the prescription originates with the jail physician a written physician's medication order will be maintained in the inmate's chart. All others will be verified by the original prescribing physician or managing pharmacy and documented in the inmate's chart.
  - b.) The Contractor will prepare the medications and all prescriptions will be ready for pickup by Sunday. County will be responsible for picking up medications from the Contractor. (If the Contractor is not in Inyo County, it will be the responsibility of the Contractor to deliver the medication to Independence no later than Tuesday, 8:00 am).
  - c.) Each prescription will be set up in a blister pack or plastic medication dispenser identifying each day with 4 separate compartments, one compartment for each dose time, (the Contractor will own and provide all of the medication dispensers). If an inmate is on more than 1 different medication at the same dose time, the appropriate compartment would hold the multiple medications and be placed in the designated day.
  - d.) Each dispenser will have a prescription label including the inmate name designated either printed in a larger font size from the rest of the label or in bold print. Each medication will include a full description secured on the dispenser. The week period starts on a Thursday to the following Wednesday. It is the responsibility of the County to return all empty medication dispensers to the Contractor.
  - e.) For newly ordered medications needed in-between the usual ordering schedule, the County nursing staff and/or nursing contractor will contact the Contractor via telephone and provide a telephone prescription order. The medications will need to be available at the end of that County work day, packaged and labeled in a medication dispenser and set up for the remainder of the week, (the County will be responsible for picking up the medications, unless the Contractor is outside of the county).
  - f.) A standard medication label will be provided to the County for each prescription with each filling of the weekly order.

-Continued on Attachment A, Page 2-



ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO

AND \_\_\_\_\_  
FOR THE PROVISION OF \_\_\_\_\_ SERVICES

TERM:

FROM: July 1, 2022 TO: June 30, 2027

SCOPE OF WORK (CONTINUED):

7. An Emergency stock of the following medications needs to be available at the facility for immediate use:

- **Mild alcohol withdrawal protocol:**

Ativan 1mg BID X 3 days  
Thiamine 100mg (PO) QD X 7 days  
Multi Vitamin (PO) QD X 7 days

- **Moderate alcohol withdrawal protocol:**

Ativan 1mg TID X 3 days  
  
Then decrease to:  
  
Ativan 1 mg BID X 3 days  
Thiamine 100mg (PO) QD X 7 days  
Multi Vitamin (PO) QD X 14 days

- **Severe alcohol withdrawal protocol:**

Ativan 1 mg (#2) TID X 3 days  
  
Then decrease to:  
  
Ativan 1 mg TID X 3 days  
  
Then to decrease to:  
  
Ativan 1 mg BID X 3 days  
Thiamine 100 mg (PO) QD X 7 days  
Multi Vitamin (PO) QD X 14

- Ery tab 333mg TID X 7days
- Clindamycin 300mg TID X 7 days
- Doxycycline 100mg BID X 10 days

Each emergency stock packet will need to be appropriately labeled and placed in a medication dispenser. The inmate's name will be blank and the nurse will fill in the inmate name.

**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** Sabrina Enterprises, Inc., DBA Dwayne's Friendly Pharmacy

**FOR THE PROVISION OF** Pharmaceutical **SERVICES**

**TERM:**

**FROM:** July 1, 2022

**TO:** June 30, 2027

**SCHEDULE OF FEES:**

The COUNTY shall pay for each prescription at the wholesale price plus \$3.50 for each prescription dispensed with a maximum of \$7.00 per inmate per week. One prescription is defined as 1 week's supply of each separate medication, regardless of the number of doses per day.

The COUNTY shall pay the CONTACTOR for emergency stock medications only as they are dispensed to inmates.

The COUNTY shall pay the CONTACTOR a fee of \$1,500.00 per month for services plus the cost of medications.

The contract amount shall not exceed \$130,000 per year for a total of \$650,000 for the five-year period.

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Sabrina Enterprises, Inc., DBA Dwayne's Friendly Pharmacy  
**FOR THE PROVISION OF** Pharmaceutical **SERVICES**

**TERM:**

**FROM:** July 1, 2022      **TO:** June 30, 2027

**SEE ATTACHED INSURANCE PROVISIONS**

## Attachment C: 2022 Insurance Requirements for Pharmaceutical Services

Contractor shall 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 hereunder by the Contractor, its agents, representatives, or employees.

### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separate to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. Comprehensive business liability insurance may satisfy the CGL requirement provided endorsements and other provisions referenced below are met.
2. **Pharmacist Liability** insurance, with limit no less than **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate.
3. **Workers’ Compensation** insurance as required by the State of California, with **Statutory Limits**, and Employer’s Liability Insurance with limit of no less than **\$500,000** per accident for bodily injury or disease.
4. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage. Provision waived unless delivery or inspection services are provided onsite at county facilities.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

### OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

**Additional Insured Status:** Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

**Primary Coverage:** For any claims related to this contract, the **Contractor’s insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor’s insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

## Attachment C: 2022 Insurance Requirements for Pharmaceutical Services

***Umbrella or Excess Policy:*** The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true “following form” or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor’s primary and excess liability policies are exhausted.

***Notice of Cancellation:*** Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

***Waiver of Subrogation:*** Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

***Self-Insured Retentions:*** Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by Inyo County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Inyo County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Inyo County reserves the right to obtain a copy of any policies and endorsements for verification.

***Acceptability of Insurers:*** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to Inyo County.

***Claims Made Policies:*** If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

***Verification of Coverage:*** Contractor shall furnish Inyo County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and**

## **Attachment C: 2022 Insurance Requirements for Pharmaceutical Services**

**a copy of the Declarations and Endorsement Page of the CGL policy and any Excess policies listing all policy endorsements.** All certificates and endorsements and copies of the Declarations and Endorsements pages are to be received and approved by Inyo County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Subcontractors:*** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors.

***Duration of Coverage:*** CGL & Excess liability policies for any construction related work, including, but not limited to, maintenance, service, or repair work, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

***Special Risks or Circumstances:*** Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.  
-end-



# County of Inyo



## Treasurer-Tax Collector

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Alisha McMurtrie

**SUBJECT:** Approval of Contract for Assistant Treasurer-Tax Collector

---

**RECOMMENDED ACTION:**

Request Board approve the contract between the County of Inyo and Carolynn Phillips for the provision of professional services as the Assistant Treasurer-Tax Collector at Range 84, Step C, \$8,012 per month, effective July 7, 2022, and authorize the County Administrator to sign, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

The Assistant Treasurer-Tax Collector position became vacant as a result of the employee transitioning to another County position. The Department initiated the recruitment process and following interviews, selected Carolynn Phillips. The Department respectfully requests your Board approve the contract for personnel services and authorize the County Administrator to sign.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The Department would continue to recruit to fill the vacancy should this contract not be approved.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

Funding for this position is included in the 2022/2023 annual budget and is included in the department's authorized manpower listing.

**ATTACHMENTS:**

1. Carolynn Phillips -- Assistant Treasurer-Tax Collector Contract

**APPROVALS:**

Darcy Ellis  
Darcy Ellis  
Keri Oney  
Alisha McMurtrie  
John Vallejo  
Amy Shepherd

Created/Initiated - 6/29/2022  
Approved - 6/29/2022  
Approved - 6/29/2022  
Approved - 6/29/2022  
Approved - 6/29/2022  
Final Approval - 6/29/2022



**AGREEMENT BETWEEN COUNTY OF INYO  
AND CAROLYNN PHILLIPS  
FOR THE PROVISION OF PERSONAL SERVICES  
AS ASSISTANT TREASURER-TAX COLLECTOR**

**INTRODUCTION**

WHEREAS, CAROLYNN PHILLIPS (hereinafter referred to as "Assistant Treasurer-Tax Collector") has been or will be duly appointed as an Assistant Treasurer-Tax Collector for Inyo County; and

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Assistant Treasurer-Tax Collector desire to set forth the manner and means by which Assistant Treasurer-Tax Collector will be compensated for performance of duties.

NOW THEREFORE, in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, County and Assistant Treasurer-Tax Collector hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

Assistant Treasurer-Tax Collector shall furnish to the County those services and work set forth in Attachment A, attached hereto and by reference incorporated herein.

Services and work provided by Assistant Treasurer-Tax Collector under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, resolutions, and directions.

**2. ADMINISTRATION OF CONTRACT.**

Assistant Treasurer-Tax Collector will report directly to and shall work under the direction of the Treasurer-Tax Collector. As the County's Personnel Director, the County Administrative Officer will administer this contract and exercise its provisions in consultation with the Treasurer-Tax Collector.

**3. TERM.**

The term of this Agreement shall be from July 7, 2022 until terminated as provided below.

**4. CONSIDERATION.**

A. Compensation. County shall pay Assistant Treasurer-Tax Collector in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Assistant Treasurer-Tax Collector.

B. Travel and Per Diem. County shall reimburse Assistant Treasurer-Tax Collector for the travel expenses and per diem which Assistant Treasurer-Tax Collector incurs in providing services and work under this Agreement. Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Assistant Treasurer-Tax Collector for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Assistant Treasurer-Tax Collector without the proper approval of the County.

C. No Additional Consideration. Except as expressly provided in this Agreement, Assistant Treasurer-Tax Collector shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement.

D. Manner of Payment. Assistant Treasurer-Tax Collector will be paid in the same manner and on the same schedule of frequency as other County officers and employees.

E. Federal and State Taxes. From all payments made to Assistant Treasurer-Tax Collector by County under the terms and provisions of this Agreement, County shall withhold all appropriate federal and state income taxes (resident and non-resident).

## **5. WORK SCHEDULE.**

Assistant Treasurer-Tax Collector's obligation is to perform the services and work identified in Attachment A which are needed within the County. It is understood by Assistant Treasurer-Tax Collector that the performance of these services and work will require a varied schedule. Assistant Treasurer-Tax Collector, in arranging her schedule, will coordinate and make arrangements to fulfill the requirements of the services and work which is necessary.

## **6. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Assistant Treasurer-Tax Collector to provide the services and work described in Attachment A must be procured by Assistant Treasurer-Tax Collector and be valid at the time Assistant Treasurer-Tax Collector enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Assistant Treasurer-Tax Collector must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, and professional licenses or certificates. Assistant Treasurer-Tax Collector will provide County, at County's request, evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Assistant Treasurer-Tax Collector and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

## **7. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

County shall provide Assistant Treasurer-Tax Collector with such supplies, reference materials, telephone service, and staff as is deemed necessary by the County for Assistant Treasurer-Tax Collector to provide the services identified in Attachment A to this Agreement.

## **8. COUNTY PROPERTY.**

A. Supplies, Equipment, etc. All supplies, equipment, tools, protective or safety devices, badges, identification cards, keys, uniforms, vehicles, reference materials, furniture, appliances, etc. provided to Assistant Treasurer-Tax Collector by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Assistant Treasurer-Tax Collector will use reasonable care to protect, safeguard and maintain such items while they are in Assistant Treasurer-Tax Collector's possession.

B. Products of Assistant Treasurer-Tax Collector 's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art,

inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result or product of, Assistant Treasurer-Tax Collector's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Assistant Treasurer-Tax Collector will convey possession and title to all such properties to County.

**9. WORKERS' COMPENSATION.**

County shall provide workers' compensation coverage to Assistant Treasurer-Tax Collector for all acts performed in the course and scope of providing the services described in Attachment A to this Agreement. In the event a claim is made by Assistant Treasurer-Tax Collector for injuries received in the course and scope of providing such services, County's liability shall be limited to workers' compensation benefits payable under the California Labor Code.

**10. DEFENSE AND INDEMNIFICATION.**

In the event the Assistant Treasurer-Tax Collector is sued for acts performed within the course and scope of providing services and work described in Attachment A of this Agreement, County shall defend, indemnify, and hold the Assistant Treasurer-Tax Collector harmless from any and all liability arising from such acts as required by law.

**11. TERMINATION AND DISCIPLINE.**

Assistant Treasurer-Tax Collector's services under this Agreement may be terminated by County without cause, and at will, for any reason by giving to Assistant Treasurer-Tax Collector ninety (90) days written notice of such intent to terminate. Assistant Treasurer-Tax Collector may terminate this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to terminate to County.

**12. ASSIGNMENT.**

This is an agreement for the personal services of Assistant Treasurer-Tax Collector. County has relied upon the skills, knowledge, experience, and training of Assistant Treasurer-Tax Collector as an inducement to enter into this Agreement. Assistant Treasurer-Tax Collector shall not assign or subcontract this Agreement, or any part of it, without the express written consent of the County.

**13. NONDISCRIMINATION.**

Assistant Treasurer-Tax Collector agrees to comply with various provisions of the federal, state, and county statutes, laws, and ordinances applicable to the County prohibiting discrimination against any person on specified grounds.

**14. CONFIDENTIALITY.**

Assistant Treasurer-Tax Collector agrees to comply with various provisions of the federal, state, and county laws and ordinances providing that information and records kept, maintained, or accessible by the County, shall be privileged, restricted, or confidential. Disclosure of such confidential, privileged, or protected information shall be made by Assistant Treasurer-Tax Collector only as allowed by law.

**15. CONFLICTS.**

Assistant Treasurer-Tax Collector agrees that Assistant Treasurer-Tax Collector has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement. Assistant Treasurer-Tax Collector agrees to complete and file appropriate conflict of interest statements.

**16. POST AGREEMENT COVENANT.**

Assistant Treasurer-Tax Collector agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Assistant Treasurer-Tax Collector agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Assistant Treasurer-Tax Collector by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**17. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form, and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**18. NOTICE.**

Any notice, amendments, or additions to this Agreement, including change of address of either party during the term of this Agreement, which Assistant Treasurer-Tax Collector or County shall be required, or may desire, to make shall be in writing and shall be sent by prepaid first-class mail to the respective parties as follows:

|                               |                 |
|-------------------------------|-----------------|
| <b>County of Inyo</b>         |                 |
| <u>County Administrator</u>   | Department      |
| <u>P.O. Drawer N</u>          | Mailing Address |
| <u>Independence, CA 93526</u> | City and State  |

|  |                |
|--|----------------|
| <b>Assistant Treasurer-Tax Collector</b> |                |
| <u>CAROLYNN PHILLIPS</u>                 | Name           |
| <u>P.O. Box 392</u>                      | Street         |
| <u>Big Pine, CA 93513</u>                | City and State |

**29. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO  
AND CAROLYNN PHILLIPS  
FOR THE PROVISION OF PERSONAL SERVICES  
AS ASSISTANT TREASURER-TAX COLLECTOR**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
5th DAY OF July, 2022.

**COUNTY OF INYO**

**ASSISTANT TREASURER-TAX COLLECTOR**

By: \_\_\_\_\_

By: \_\_\_\_\_  
Print or Type Name

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGALITY:

\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING  
FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL  
REQUIREMENTS:

\_\_\_\_\_  
Personnel Services

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND CAROLYNN PHILLIPS  
FOR THE PROVISION OF PERSONAL SERVICES  
AS ASSISTANT TREASURER-TAX COLLECTOR**

**TERM:**

**FROM: July 7, 2022 TO: TERMINATION**

**SCOPE OF WORK:**

Upon commencing employment, Assistant Treasurer-Tax Collector shall perform the duties and responsibilities as identified in the job description for Assistant Treasurer-Tax Collector incorporated herein by this reference.

**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND CAROLYNN PHILLIPS  
FOR THE PROVISION OF PERSONAL SERVICES  
AS ASSISTANT TREASURER-TAX COLLECTOR**

**TERM:**

**FROM July 7, 2022 TO: TERMINATION**

**SCHEDULE OF FEES:**

1. After commencing employment, Assistant Treasurer-Tax Collector shall be compensated at Range 84 Step C and be paid \$8,012 per month and shall be paid every two weeks on County paydays and be eligible for Merit Advancement as outlined in the Personnel Rules and Regulations.
2. The Treasurer-Tax Collector will review Assistant Treasurer-Tax Collector performance annually.
3. To the extent not inconsistent with any other provision of this contract, the terms and conditions of Assistant Treasurer-Tax Collector's employment shall also be covered by the County's Personnel Rules and Regulations and by the County's Memorandum of Understanding with the Elected Officials Assistants Association (which represents Assistant Treasurer-Tax Collector's position).
4. County will provide a \$250.00 per month vehicle allowance.
5. The provisions of this Attachment B shall prevail over any contrary provision in any applicable County personnel policy or rule.

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND CAROLYNN PHILLIPS  
FOR THE PROVISION OF PERSONAL SERVICES  
AS ASSISTANT TREASURER-TAX COLLECTOR**

**TERM:**

**FROM: July 7, 2022 TO: TERMINATION**

**SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:**

1. Subject to Paragraph 2 below, County will reimburse Assistant Treasurer-Tax Collector for travel and per diem expenses in the same amount and to the same extent as County reimburses its permanent status merit system employees.
2. Assistant Treasurer-Tax Collector will not be reimbursed for intra-county travel by private automobile to destinations less than seventy-five (75) miles from Independence, California.

\\\\ NOTHING FOLLOWS\\\\





# County of Inyo



## Water Department

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Aaron Steinwand

**SUBJECT:** Amendment to the Post Implementation Agreement concerning funding of the Lower Owens River Project (LORP)

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**RECOMMENDED ACTION:**

Request Board approve Amendment No. 1 to the "Agreement Between the County of Inyo and City of Los Angeles Department of Water and Power Concerning Operation and Funding of the Lower Owens River Project," and authorize the Chairperson to sign.

**SUMMARY/JUSTIFICATION:**

On October 18, 2009 your Board approved the "Agreement Between the County of Inyo and City of Los Angeles Department of Water and Power (LADWP) Concerning Operation and Funding of the Lower Owens River Project" (Agreement). The Los Angeles Board of Water and Power Commissioners approved a corrected version on May 18, 2010, and your Board approved the same corrections on June 8, 2010. The Background section below explains the purpose and provisions of the Agreement and the reason it was necessary to adopt the corrections.

The Agreement expires on July 11, 2022, but termination of the Agreement does not end the County's obligation to operate and fund the Lower Owens River Project (LORP). Operations, maintenance, and adaptive management of the project will continue beyond the expiration date. Section XII of the Inyo/Los Angeles Water Agreement and certain provisions of the LORP Final Environmental Impact Report (FEIR) require Inyo County and Los Angeles to adopt a policy setting out the responsibilities for each entity to manage and fund the LORP.

Inyo County and LADWP staff propose to extend the term of the existing Agreement another two years to July 11, 2024. In addition, certain dates in Section J of the Agreement pertaining to the timing of adjustments to the LORP Credit and LORP Trust (explained below in Financing) also will be extended two years for consistency.

During the period of the extension, Inyo and LADWP will re-evaluate the Agreement as well as acquire a better understanding of the costs of the most significant adaptive management measure, the Blackrock Waterfowl Management Area Interim Plan.

It is requested that your Board approve Amendment No. 1 to the "Agreement Between the County of Inyo and City of Los Angeles Department of Water and Power Concerning Operation and Funding of the Lower Owens River Project" and authorize the County Administrator to sign. The Los Angeles Board of Water and Power Commissioners will consider Amendment No. 1 on July 28, 2022.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

The Agreement was developed by County and LADWP staff to satisfy the requirement of the Long-Term Water Agreement, Section XII, that, "Once the project has been constructed and completed, the Department and the County would jointly operate and fund the non-pumpback portions of the project." In order to provide for joint operation and funding of the LORP, the LORP Final Environmental Impact Statement, Section 2.2.2.2, states that, "After adoption of the LORP, the governing bodies of the County and LADWP will adopt a policy that sets forth each entity's responsibilities for LORP funding during the implementation and post-implementation periods. The policy will also describe the procedures for managing the LORP during the post implementation period."

The Agreement contains those policies and procedures. Key provisions include:

Section II.A provides that the County's obligation to jointly fund the LORP begins on July 11, 2007. On that date, the parties entered into a Stipulation and Order in which they agreed that as of July 11, 2007, LADWP had established a permanent baseflow of approximately 40 cfs in the LORP.

Section II.B describes activities that are LADWP's sole responsibility. These activities include: operation and maintenance of the pump-back station, reconstruction of two temporary stations that the Standing Committee designated as permanent stations, maintenance of LADWP roads, funding for noxious weed control (as per the LORP FEIR), costs associated with the intentional introduction of special-status species in the LORP area, costs associated with livestock grazing, cost of water supplied to the LORP, costs resulting from the construction during the implementation of the project, payment of non-compliance penalties (unless they are attributable the County's actions or failure to act), and LADWP's administrative costs associated with developing the LORP Annual Work Plan.

Section II.C describes activities that are the County's sole responsibility. These activities include: development of the County's recreational use plan, any campgrounds that are developed in the LORP area, maintenance of County roads, payment of any portion of a non-compliance payment that is attributable to an action or inaction by the County, and the County's administrative costs associated with developing the LORP Annual Work Plan.

Section II.D describes activities and costs that are shared by LADWP and the County. These include operation and maintenance of flow measuring stations; ditch and diversion structure maintenance costs that are above the pre-project baseline costs; habitat and water quality monitoring; consultant's costs for LORP related activities, monitoring, treatment, and public education for mosquitoes; maintenance costs for structures in the Blackrock Waterfowl Area that are above the pre-project baseline costs; beaver control; saltcedar control; costs associated with preparation of an annual report; and costs of permits and environmental assessments associated with any activity described in an agreed-to work plan.

Sections II.E, F, and G describe the development and procedures to modify the LORP Annual Work Plan and Budget. Development and approval of the Annual Work Plan allow your Board to specify what activities will occur and approve costs before each fiscal year. While there is no cap on annual or long-term costs to the County, the Agreement specifies priorities for using funding that is available. Each Annual Work Plan and Budget identifies tasks to be undertaken during the next fiscal year, how the work will be performed, and a budget. Certain tasks, specified in section II.D, are required to be included in the Annual Work Plan, while other tasks, such as adaptive management measures, are optional. On June 28, 2022, your Board approved the LORP work plan for 2022-2023.

Sections II H. and II.I describe procedures for situations where unanticipated work is urgently needed and how the parties will jointly seek and utilize third-party funding for LORP activities.

Section II.J describes how payments and adjustments will be made to fulfill each party's obligation to share the operation and funding of the LORP. Costs and obligations of each party are those delineated in the Annual Work Plan and Budget, and not subject to reconciliation for discrepancies identified in the annual accounting report between work planned and actual work performed which is usually provided to your Board each October.

The County's LORP funding is held in the LORP Credit and LORP Trust Account (explained below in Financing).

In the event that the annual expenditures result in the need for the County to pay LADWP, this section describes the procedure for using the LORP Credit to cover the County's obligation, and, when the Credit is expended, to draw necessary funds from the LORP Trust Account. If the LORP Credit and the LORP Trust are exhausted, the County is obligated to make any required payments to LADWP. This situation is not expected to occur within the term of the requested extension to 2024. The Credit and Trust balances and the history of expenditures during the life of the project are provided in the Annual Work Plan.

Section II.K provides that resolution of disputes will be according to the dispute resolution process of the Long-Term Water Agreement. Disagreements over the content of work plans will be submitted to the Technical Group. If the Technical Group is unable to agree regarding an item in the work plan, the Standing Committee will resolve the dispute. The Standing Committee's resolution will be presented to each governing board for adoption. If the Standing Committee is unable to resolve the dispute, it may submit the dispute to an impartial third party for advice. The advice of the third party is not binding on the Standing Committee or the governing bodies. The Standing Committee may also submit the unresolved issues directly to the governing bodies. If the governing bodies cannot resolve the dispute, the task in dispute will not be jointly funded, although either party may fund the task and pay for additional maintenance costs that may be incurred.

Section II.N provides that the County may elect to reimburse itself from the LORP Trust Account for LORP related work conducted as part of an annual work plan.

Sections II.O and II.P describe how the Standing Committee will consult with California Department of Fish and Game on the amount, duration, timing, and ramping of seasonal habitat flows, and the amount of flooded acreage in the Blackrock Waterfowl Habitat Area. These consultations are required under the MOU.

Section II.S provides for consultation with the LORP advisory committee, which is defined in the LORP Management and Adaptive Management Plan and consists of MOU representatives and LADWP lessees.

Section II.T provides that the Agreement will terminate on July 11, 2022 and allows that a determination will be made as to what ongoing obligations exist for operation and funding the LORP when the Agreement terminates.

The LADWP Commissioners approved the original Agreement on October 6, 2009 prior to your Board's approval on October 18, 2009. Upon review of the document approved by LADWP, it was discovered that the exhibits attached to the version of the Agreement were incorrect (your Board approved the Agreement with the correct exhibits). On May 18, 2010, the LADWP Board approved the "Agreement Between the County of Inyo and City of Los Angeles Department of Water and Power Concerning Operation and Funding of the Lower Owens River Project (With Technical Changes of May 18, 2010)." The Revised Agreement included the correct exhibits and several minor corrections and updates to the text to bring the provisions for consultation with the Department of Fish and Wildlife on setting seasonal habitat flows in the LORP into conformance with the requirements of a Stipulated Judgment arising from litigation referred to as LORP 4. Your Board subsequently approved the Revised Agreement.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Do not approve Amendment No. 1, and direct staff to continue working with LADWP to modify the Amendment to incorporate the Board's desired modifications.

**OTHER AGENCY INVOLVEMENT:**

Extension of the term and related revisions of the Agreement is contingent on approval of Amendment No. 1 by the LADWP Board of Water and Power Commissioners.

**FINANCING:**

Funding for the LORP is provided for and circumscribed by a lengthy series of agreements and Court orders. Extending the Term of the Agreement will continue the procedures to establish the fiscal year work plan and

budget and the agreed upon accounting procedures that have been implemented for the past 15 years to pay the County's LORP costs from the LORP Credit and Trust.

Details of the history of the agreements and litigation that provided funds for the LORP Credit and Trust are provided in the Annual Work Plan and associated agenda requests each year and are only briefly reviewed below for context for this item.

Section XII of the Water Agreement provides that: (1) the County will fund one-half of the LORP initial construction costs up to a maximum of \$3.75 million, (2) LADWP will fund the remaining initial construction costs of the LORP, and (3) LADWP and the County will jointly fund and operate the LORP after it has been implemented (except for the costs of operating and maintaining the pump station which will be funded by LADWP). In 2005, the County and LADWP entered into a settlement agreement that fully discharged the County's obligation for the payment of \$3.75 million for the LORP initial construction costs and provided \$2,253,033 for a LORP Credit held by LADWP. Each year, the amount of the Credit is annually adjusted upward or downward in accordance with the Los Angeles--Anaheim--Riverside All Urban Consumers Price Index and then reduced by the County's share of the LORP post-implementation costs that were described in the Annual Work Plan.

Also in 2005, the Court sanctioned LADWP to pay \$5,000 per day into an escrow account established by Los Angeles and Inyo County until Los Angeles established permanent baseflows of approximately 40 cfs throughout the Lower Owens River. The proceeds of the account (initially \$3,368,017) and accrued interest are used to pay the County's share of post-implementation costs for the LORP. The escrow account is held by the County Treasury as Trust Account 504103, Sierra Club vs LADWP ("Trust Account").

As of April 1, 2022, the LORP Credit had a balance of \$718,111, and the LORP Trust balance as of June 3, 2022 was \$2,184,481. The sum of the Credit and Trust is \$2,902,592; the balance of the two accounts at the beginning of the LORP post implementation period was \$5,621,050.

**ATTACHMENTS:**

1. Amendment No. 1 to LORP Post Implementation Agreement
2. LORP Post Implementation Agreement - May 2010

**APPROVALS:**

|                 |                               |
|-----------------|-------------------------------|
| Aaron Steinwand | Created/Initiated - 6/23/2022 |
| Darcy Ellis     | Approved - 6/24/2022          |
| Aaron Steinwand | Approved - 6/24/2022          |
| Keri Oney       | Approved - 6/24/2022          |
| John Vallejo    | Approved - 6/28/2022          |
| Amy Shepherd    | Final Approval - 6/29/2022    |

**AMENDMENT NO. 1 TO AGREEMENT  
BETWEEN THE COUNTY OF INYO AND CITY OF LOS ANGELES DEPARTMENT OF  
WATER AND POWER CONCERNING OPERATION AND FUNDING OF THE LOWER  
OWENS RIVER PROJECT**

**THIS AMENDMENT NO. 1** to the Agreement Between the County of Inyo (County) and City of Los Angeles Department of Water and Power (LADWP) Concerning Operation and Funding of the Lower Owens River Project (LORP) (Agreement) is made and entered into by and between LADWP and the County, who are referred to under this Amendment as “Party” and collectively as the “Parties”.

**WITNESSETH**

**WHEREAS**, the Agreement was approved by your Honorable Board on May 18, 2010 through Resolution 010106, effective until July 11, 2022; and

**WHEREAS**, operations, maintenance, hydrologic monitoring, and some adaptive management will continue in the LORP beyond the expiration of the Agreement; and

**WHEREAS**, representatives of the LADWP and the County have prepared Amendment No. 1 to the Agreement to their governing boards for approval to extend the Agreement for a period of two years (until July 11, 2024) to allow for the continuation of joint funding of LORP post-implementation costs by LADWP and the County;

**NOW, THEREFORE**, the Parties hereby agree to amend the Agreement as follows:

**AMENDMENT**

**Agreement No. 1 to the Agreement**

Section II.A. Commencement of Post Implementation Funding Obligations, currently reads:

The commitments of LADWP and the County to jointly fund and operate the post-implementation costs and activities of the LORP commenced on July 11, 2007. In this agreement, the Parties define their responsibilities for jointly funding and conducting post-implementation activities required to be undertaken during the 15-year period following July 11, 2007 (until July 11, 2022). After July 11, 2022, the required flows will continue to be maintained and the flow compliance monitoring required by the Stipulation and Order will continue to be conducted; however, the Parties will decide what level of operations, maintenance, habitat monitoring, and adaptive management will be conducted. The Parties do not intend by this agreement to redefine or reinterpret any provision of the MOU; however, by Section P of this agreement, the Parties intend to modify Section A.2 of the LORP Funding Agreement dated September 16, 2005.

Section II.A. Commencement of Post Implementation Funding Obligations, is amended to read:

The commitments of LADWP and the County to jointly fund and operate the post-implementation costs and activities of the LORP commenced on July 11, 2007. In this agreement, the Parties define their responsibilities for jointly funding and conducting post-implementation activities required. After July 11, 2024, the required flows will continue to be maintained and the flow compliance monitoring required by the Stipulation and Order will continue to be conducted; however, the Parties will decide what level of operations, maintenance, habitat monitoring, and adaptive management will be conducted. The Parties do not intend by this agreement to redefine or reinterpret any provision of the MOU; however, by Section P of this agreement, the Parties intend to modify Section A.2 of the LORP Funding Agreement dated September 16, 2005.

Section II.J.2.d. Debits and Payments, currently reads:

On each July 21 following July 21, 2009 through July 21, 2021 (or on the next business day thereafter if a July 21 is not a business day) for as long as sufficient funds remain in the Post Implementation Credit, LADWP shall annually reduce the credit by the County's cost obligation identified in that year's annual work plan and budget approved pursuant to Section II.F.

Section II.J.2.d. Debits and Payments, is now amended to read:

On each July 21 following July 21, 2009 through July 21, 2023 (or on the next business day thereafter if a July 21 is not a business day) for as long as sufficient funds remain in the Post Implementation Credit, LADWP shall annually reduce the credit by the County's cost obligation identified in that year's annual work plan and budget approved pursuant to Section II.F.

Section II.J.2.e. Debits and Payments, currently reads:

Once the balance in the Post Implementation Credit has been reduced to an amount that is insufficient to cover the amount of the required debit, LADWP will reduce the Post Implementation Credit to zero, and the County will make a payment to LADWP from the Trust Account in the amount of the difference. Thereafter, on or before July 21 of each year through July 21, 2021, the County shall make an annual payment to LADWP from the Trust Account in the amount of the County's cost obligation identified in an annual work plan and budget approved pursuant to Section II.F.

Section II.J.2.e. Debits and Payments, is now amended to read:

Once the balance in the Post Implementation Credit has been reduced to an amount that is insufficient to cover the amount of the required debit, LADWP will reduce the Post Implementation Credit to zero, and the County will make a payment to LADWP from the Trust Account in the amount of the difference. Thereafter, on or before July 21 of each

year through July 21, 2023, the County shall make an annual payment to LADWP from the Trust Account in the amount of the County's cost obligation identified in an annual work plan and budget approved pursuant to Section II.F.

Section II.J.2.f. Debits and Payments, currently reads:

If, on or before November 1, 2021, the amount remaining in the Trust Account is insufficient to cover a required payment to LADWP, the County shall pay the remaining balance in the Trust Account to LADWP and shall make a supplemental payment in the amount of the difference to LADWP; on or before November 1 of each year through November 1, 2021, the County shall make an annual payment to LADWP in the amount of the County's share of any post-implementation cost or activity (including adaptive management measures) identified in an annual work plan and budget approved pursuant to Section II.F.

Section II.J.2.f. Debits and Payments, is now amended to read:

If, on or before November 1, 2023, the amount remaining in the Trust Account is insufficient to cover a required payment to LADWP, the County shall pay the remaining balance in the Trust Account to LADWP and shall make a supplemental payment in the amount of the difference to LADWP; on or before November 1 of each year through November 1, 2023, the County shall make an annual payment to LADWP in the amount of the County's share of any post-implementation cost or activity (including adaptive management measures) identified in an annual work plan and budget approved pursuant to Section II.F.

Section II.J.3. Annual Accounting Reports, currently reads:

Beginning on October 31, 2009 and on or before each October 31 thereafter through October 31, 2022, an annual accounting report that describes the work performed pursuant to the previous year's approved work plan, and the costs incurred by each Party in performing such work shall be submitted to the governing board of each Party or the Party's designee. The accounting report will identify the difference, if any, between the actual costs incurred by each Party and the actual work performed by each Party as compared to the costs and work for that Party that were identified in that year's approved work plan and budget. The costs will be documented by timesheets and other appropriate documentation. It is recognized that actual costs incurred by the Parties will likely be different than the amounts budgeted in the approved work plan(s). The accounting must be approved by the governing board of each Party or by the Party's designee.

Section II.J.3. Annual Accounting Reports, is now amended to read:

Beginning on October 31, 2009 and on or before each October 31 thereafter through October 31, 2024, an annual accounting report that describes the work performed pursuant to the previous year's approved work plan, and the costs incurred by each

Party in performing such work shall be submitted to the governing board of each Party or the Party's designee. The accounting report will identify the difference, if any, between the actual costs incurred by each Party and the actual work performed by each Party as compared to the costs and work for that Party that were identified in that year's approved work plan and budget. The costs will be documented by timesheets and other appropriate documentation. It is recognized that actual costs incurred by the Parties will likely be different than the amounts budgeted in the approved work plan(s). The accounting must be approved by the governing board of each Party or by the Party's designee.

Section II.T. Term, currently reads:

The provisions of this agreement will terminate on July 11, 2022; however, for the purpose of allowing for an audit to be conducted pursuant to Section II.J.3.d, and to allow time for the reconciliation of any accounting disputes that may arise under Section II.J.3.d the Parties agree that the applicable provisions of the agreement will be extended as necessary for those limited purposes. The Parties will make a determination of the obligations for any ongoing operation and maintenance activities and associated funding at the time of the effective termination of this agreement.

Section II.T. Term, is now amended to read:

The provisions of this agreement will terminate on July 11, 2024; however, for the purpose of allowing for an audit to be conducted pursuant to Section II.J.3.d, and to allow time for the reconciliation of any accounting disputes that may arise under Section II.J.3.d the Parties agree that the applicable provisions of the agreement will be extended as necessary for those limited purposes. The Parties will make a determination of the obligations for any ongoing operation and maintenance activities and associated funding at the time of the effective termination of this agreement.

Except as herein amended above, all other terms and conditions of Agreement shall remain in full force and effect.



This Amendment No. 1 may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same amendment. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by LADWP) and sent by e-mail shall be deemed original signatures. This Amendment No. 1 consists of five (5) pages.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Amendment No. 1 to the Agreement on the date indicated.

**DEPARTMENT OF WATER AND POWER  
OF THE CITY OF LOS ANGELES BY  
BOARD OF WATER AND POWER COMMISSIONERS**

By: \_\_\_\_\_  
MARTIN L. ADAMS  
General Manager and Chief Engineer

Date: \_\_\_\_\_

And: \_\_\_\_\_  
CHANTE L. MITCHELL  
Board Secretary

**COUNTY OF INYO**

By: \_\_\_\_\_  
LESLIE CHAPMAN  
Inyo County Administrator

Date: \_\_\_\_\_

**AGREEMENT BETWEEN THE COUNTY OF INYO AND CITY OF  
LOS ANGELES DEPARTMENT OF WATER AND POWER  
CONCERNING OPERATION AND FUNDING  
OF THE LOWER OWENS RIVER PROJECT**

**RECITALS**

1. In 1991, the City of Los Angeles Department of Water and Power ("LADWP") and the County of Inyo ("County") entered into the *Agreement Between the County of Inyo and the City of Los Angeles and its Department of Water and Power on a Long Term Groundwater Management Plan for Owens Valley and Inyo County* ("Water Agreement"). The impacts of the Water Agreement were addressed in an environmental impact report that also addressed the impacts of LADWP's groundwater pumping operations in the Owens Valley from 1970 to 1990 ("1991 EIR").
2. The Water Agreement provides for, among other things, the implementation of the Lower Owens River Project ("LORP"), which includes the rewatering of a portion of the Owens River ("Riverine Area"), the maintenance of certain off-river lakes and ponds ("Off River Lakes and Ponds"), establishment of a waterfowl habitat area in the Blackrock area ("Blackrock Waterfowl Area"), enhancement of habitat in the Owens River delta area ("Delta Area"), and a pump station. The 1991 EIR further identified the LORP as an LADWP compensatory mitigation measure for impacts related to LADWP's groundwater pumping from 1970 to 1990 that were difficult to quantify or mitigate directly. Neither the Water Agreement nor the 1991 EIR nor any other document identifies the LORP as a mitigation measure for any activity undertaken by the County. The Water Agreement and the 1991 EIR provided that the impacts of the LORP would be addressed in a separate environmental impact report.
3. Section XII of the Water Agreement provides that: (1) the County will fund one-half of the LORP initial construction costs (up to a maximum of \$3.75 million—less any funds contributed to cover the initial construction costs by the State of California or other non-LADWP sources); (2) LADWP will fund the remaining initial construction costs of the LORP; and (3) LADWP and the County will jointly fund and operate the LORP after it has been implemented (except for the costs of operating and maintaining the pump station, which will be funded by LADWP).
4. In 1997, LADWP and the County entered into a settlement agreement called a Memorandum of Understanding ("MOU") with the California Department of Fish and Game, the California State Lands Commission, the Sierra Club, and the Owens Valley Committee. The purpose of the MOU was to resolve challenges to the legal adequacy of the 1991 EIR, and the implementation of the LORP. The MOU specifies the amount of baseflow to be maintained in the river, the release of higher seasonal habitat flows, and delineated a schedule for establishing the baseflow in the river.
5. In 2004, LADWP and the County each adopted an Environmental Impact Report that addressed the LORP ("Final LORP EIR").

6. The schedule in the MOU for establishing baseflows in the LORP was not met. On August 8, 2005, the Inyo County Superior Court, in case number S1CVCV01-29768, issued an order ("Court Order") that required LADWP to pay \$5,000.00 per day, commencing on September 5, 2005, into an escrow account established by LADWP and the County until LADWP established a permanent baseflow of approximately 40 cfs in the LORP. Under the Court Order, the proceeds of the escrow account are only to be used to pay the costs of: (1) the Special Master (appointed as part of the Court Order); (2) the County's share of the post-implementation costs of the LORP; (3) the cost of monitoring habitat indicator species for a five-year period at the direction of the California Department of Fish and Game in an amount not to exceed \$100,000.00; and (4) the costs of the escrow account.
7. On September 16, 2005, the County and LADWP entered into a settlement agreement ("LORP Funding Agreement") whereby LADWP agreed to provide \$5,242,965.00 (with adjustments) to the County. With regard to the County's obligation to fund \$3.75 million of the LORP implementation costs, the LORP Funding Agreement provides that LADWP will provide a credit to the County in the amount of \$2,989,932.00. The LORP Funding Agreement also acknowledges that the provision of this credit, in combination with the County's previous application of \$360,000.00 obtained from the U.S. Bureau of Reclamation, \$250,000.00 obtained from the U.S. Department of Housing and Urban Development, and \$150,068.00 obtained from the EPA to LORP initial construction costs, fully discharged the County's obligation for the payment of \$3.75 million for the LORP initial construction costs.
8. With regard to the County's obligation to fund a portion of the LORP post-implementation costs, the LORP Funding Agreement provides as follows: (1) the difference between \$5,242,965.00 and the \$2,989,932.00 that will be applied to the LORP initial construction costs (a difference of \$2,253,033.00), will be a credit held in trust by LADWP (this "Post Implementation Credit" will be used to partially fund the County's obligation to pay one-half of the LORP post-implementation costs); (2) each year, the then remaining amount of this Post Implementation Credit will be reduced by the County's share of the LORP post-implementation costs until the \$2,253,033.00 credit has been reduced to zero; (3) each year, the then remaining unexpended portion of the \$2,253,033.00 will be annually adjusted upward or downward in accordance with the Los Angeles-Anaheim-Riverside All Urban Consumers Price Index ("CPI") or its successor; (4) the annual CPI adjustment will take place prior to deduction of a credit for County's annual share of the LORP post-implementation costs; and (5) the CPI adjustment will commence when LADWP has established a permanent baseflow of approximately 40 cfs in the LORP.
9. The LORP Funding Agreement also provides that the escrow account, required to be established by the Court Order, will be established in the Inyo County Treasury as a trust account and that the interest earned on the fund balance will remain in the account ("Trust Account"). The LORP Funding Agreement also provides that only after the \$2,253,033.00 Post Implementation Credit (adjusted as described above) has been reduced to zero, will the County begin to pay its share of the LORP post-implementation costs from the trust account established by the Court Order.

10. On July 11, 2007, the parties to the MOU entered into a Stipulation and Order, (“Stipulation and Order”). The Stipulation and Order resolves issues involving compliance with the Court Order. In the Stipulation and Order, the parties agree that as of July 11, 2007, LADWP had established a permanent baseflow of approximately 40 cfs in the LORP. The Stipulation and Order also provides for monitoring and reporting of the baseflow flows throughout the LORP.
11. With the entry of the Stipulation and Order on July 11, 2007, LADWP ceased making payments of \$5,000.00 per day into the Trust Account established pursuant to the Court Order because, as of that date, LADWP had established a permanent baseflow of approximately 40 cfs in the LORP. On July 11, 2007, there was \$3,368,017.17 in the Trust Account.
12. On April 28, 2008, Ecosystem Sciences, Inc. released a final LORP Monitoring, Adaptive Management and Reporting Plan (“LORP Adaptive Management Plan”).
13. Section II. A. of the MOU provides that the “MOU Consultant” (Ecosystem Sciences, Inc.) is required to prepare a plan for the LORP and that “DWP and the County will direct and assist Consultants in the preparation and implementation of the LORP ecosystem management plan (“LORP Plan”). As provided below, the future involvement of the MOU Consultant in the LORP will be determined by LADWP and the County.

## AGREEMENT

In consideration of the recitals above and the following covenants and provisions, LADWP and the County (hereinafter collectively referred to as “Parties,” and individually referred to as a “Party”) agree as follows:

### I. IMPLEMENTATION PERIOD

- A. All construction, channel modification, planning, and development work, including the completion of all required final LORP plans and other related pre-implementation work performed by Ecosystem Sciences, Inc.; the preparation of the EIR on the project; and any other necessary work for initial operation of the project (including channel modifications downstream of the Intake that have been made to correct a flow impedance problem) are to be considered as costs of implementing the LORP.
- B. LADWP will pay all costs of implementing the LORP that are not funded by sources other than LADWP. As provided in the LORP Funding Agreement, LADWP will pay the County’s \$3.75 million share of the LORP implementation costs.

## **II. POST-IMPLEMENTATION PERIOD**

### **A. COMMENCEMENT OF POST-IMPLEMENTATION FUNDING OBLIGATIONS**

The commitments of LADWP and the County to jointly fund and operate the post-implementation costs and activities of the LORP commenced on July 11, 2007. In this agreement, the Parties define their responsibilities for jointly funding and conducting post-implementation activities required to be undertaken during the 15-year period following July 11, 2007 (until July 11, 2022). After July 11, 2022, the required flows will continue to be maintained and the flow compliance monitoring required by the Stipulation and Order will continue to be conducted; however, the Parties will decide what level of operations, maintenance, habitat monitoring, and adaptive management will be conducted. The Parties do not intend by this agreement to redefine or reinterpret any provision of the MOU; however, by Section P of this agreement, the Parties intend to modify Section A.2 of the LORP Funding Agreement dated September 16, 2005.

### **B. POST-IMPLEMENTATION COSTS AND ACTIVITIES THAT ARE THE SOLE RESPONSIBILITY OF LADWP**

Unless otherwise agreed to by the Parties, LADWP will have the sole responsibility for planning, operating, and/or conducting the following activities and for all costs arising from such activities.

1. All operation and maintenance costs of the LORP pump station, including hydrologic monitoring and data collection and reporting costs, the maintenance of all roads used exclusively to provide access to these facilities, all pipelines, electrical transmission lines, release structures (excluding the delta release control structure called the Langemann gate), dikes, dams, flow measuring devices and ponds associated with the facilities.
2. On July 9, 2009, the Standing Committee designated four permanent flow monitoring stations in the river (three of the permanent monitoring stations consist of a single station, and the fourth station located at the pumping station consists of three monitoring stations). The two temporary monitoring stations located at Mazourka and Reinhackle will be replaced with permanent monitoring stations. LADWP will design and construct these permanent flow measuring stations.
3. All costs of monitoring, inspecting, maintaining and repairing LADWP roads identified on Exhibit A; however, if, as a result of activities attributable to the LORP (including seasonal habitat flows), a road requires major renovation, capital improvement, or unanticipated repair, such work and the funding for such work will be included in an annual work plan as provided in Section II.F.

4. As provided in Mitigation measure V-2 of the LORP FEIR, for the first seven years of the LORP, LADWP will provide funding up to \$50,000 per year for monitoring and control of noxious weeds within the LORP area, and \$150,000 per year for monitoring and control of noxious weeds outside the LORP area that could serve as a seed source for the LORP area (LADWP began making payments of \$200,000.00 for these purposes in fiscal year 2005-2006; therefore, LADWP's obligation to provide such funding terminates after it has provided such funding for the 2011-2012 fiscal year). Prior to providing such funding for the 2009-2010 fiscal year, and prior to providing such funding for each remaining fiscal year, LADWP shall adjust the amount of the payment upward or downward in accordance with the April Los Angeles-Anaheim-Riverside All Urban Consumers Price Index or its successor; however, as a result of the adjustment, the amount of the annual payment shall not be reduced to less than \$200,000.00.
5. Unless otherwise agreed by the Parties, the intentional introduction into the LORP area by LADWP (or the introduction into the LORP area with the express consent of LADWP) of any individual (or individuals) plant or animal with special status under state or federal law, including threatened, endangered, candidate, or rare species, and the monitoring and/or management of any such introduced species.
6. All costs associated with the management and monitoring of livestock grazing and utilization in the project area.
7. The cost of any water supplied to any component or element of the LORP.
8. All costs associated with the implementation of mitigation measures and with the restoration or repair of facilities or property that were damaged or deteriorated as a result of LORP construction activities during project implementation and/or other activities associated with project implementation (including the correction of initial design defects).
9. The payment of a Non-Compliance Payment assessed pursuant to the Stipulation and Order dated July 11, 2007; however, LADWP shall not be responsible for the portion of such a payment that is attributable to an action or inaction by the County (see Section II.C.4. of this agreement.)
10. The costs of LADWP's personnel in the planning and development of work programs and budgets (including determinations of the need for adaptive management measures) or in any subsequent modifications thereof.

**C. POST-IMPLEMENTATION COSTS AND ACTIVITIES THAT ARE THE SOLE RESPONSIBILITY OF THE COUNTY**

Unless otherwise agreed by the Parties, the County will have the sole responsibility for planning, operating, constructing, and maintaining the following activities (should

any such activities be planned, constructed and maintained) and for all costs arising from such activities.

1. The development of a recreational use plan for the portion of the Owens River within the project area. (Should any such plan be developed, the implementation of the plan or of any component of the plan will require approval by LADWP before it is implemented.)
2. The development of any campgrounds along the Owens River within the project area. (Should any such campground be proposed for development, the campground will require the approval of LADWP before it is implemented.)
3. Except as provided in Section II.B.1, the costs of monitoring, inspecting, maintaining and repairing the County maintained roads identified on Exhibit A; however, if, as a result of activities attributable to the LORP (including seasonal habitat flows), a road requires major renovation, capital improvement, or unanticipated repair, such work and the funding for such work will be included in an annual work plan as provided in Section II.F. During the release of a seasonal habitat flow, the County will monitor the culverts and bridges at the point where the County roads shown on Exhibit A cross the river (the purpose of the monitoring will be to determine whether the seasonal habitat flow has or may damage the road, bridge, or culvert and whether debris plugs have or may form), and the County will remove any debris plugs as necessary to minimize flooding of, or damage to, the roads. If the County does not have the equipment necessary to remove such debris plugs, LADWP, if it has available equipment, will assist in removing such plugs.
4. The payment of any portion of a Non-Compliance Payment assessed pursuant to the Stipulation and Order that is attributable to an action or inaction by the County. For the purposes of this section, the failure to agree to an annual work plan and/or budget by a Party shall not be deemed an action or inaction.
5. The costs of County personnel in the planning and development of work programs and budgets (including determinations of the need for adaptive management measures) or in any subsequent modifications thereof.

**D. POST-IMPLEMENTATION COSTS AND ACTIVITIES THAT ARE THE JOINT RESPONSIBILITY OF LADWP AND THE COUNTY**

The following activities shall be addressed in each annual work plan and budget prepared by the Parties. (Annual work plans and budgets are described in Section 2.2.1 of the Final LORP EIR and in Section II.F of this agreement.)

1. The costs associated with operating and maintaining the flow measuring stations and the costs of hydrologic monitoring and data reporting associated with the physical features of the LORP. As provided in Section F.2 of the July 11, 2007 Stipulation and Order, ten flow monitoring stations must be maintained and operated until at least July 11, 2009, and at least four permanent monitoring

stations must be maintained and operated after that date. On July 9, 2009, the Standing Committee designated the four permanent monitoring stations that will be operated and maintained after July 11, 2009. The four permanent flow measuring stations are shown on Exhibit B.

2. LADWP and the County will each be responsible for one-half the costs of a portion of the annual cost of maintaining ditches and Aqueduct spillgates, including the delta release control structure (a "Langemann Gate") and the LORP Spillgate Structure located near the Los Angeles Aqueduct Intake (which also includes the Lower Owens River release control structure; the release control structure is a Langemann Gate), shown on Exhibit C, that are above the pre-LORP annual average baseline cost of maintaining the ditches and spillgates during the ten fiscal years from 1996-1997 to 2005-2006. The pre-LORP baseline cost of maintaining the ditches and spillgates shown on Exhibit C is \$56,863.00. When this pre-LORP baseline cost for maintaining ditches and spillgates was adjusted through November 2009, an adjusted baseline cost of \$60,819.00 resulted. Each January, this adjusted baseline cost of maintaining the ditches and spillgates shall be annually adjusted upward or downward in accordance with the November Los Angeles-Anaheim-Riverside All Urban Consumers Price Index or its successor. If, in the future, there is a significant change in non-LORP-related uses supplied by a ditch or spillgate shown on Exhibit C, the Parties will renegotiate appropriate changes to this section.
3. The annual costs of habitat and water quality monitoring and associated data collection and reporting.
4. The costs of consultants, if any (including Ecosystems Sciences), who assist in LORP-related monitoring, data collection, data analysis, and/or reporting.
5. The costs of monitoring, treatment, and public education for mosquitoes (including the use of a helicopter for aerial spraying) arising from the various components of the LORP. (The County may use funds derived from its annual benefit assessment for mosquito control to fund its share of the cost of such work included in an annual work plan and budget.)
6. LADWP and the County will each be responsible for one-half the costs of a portion of the annual costs of maintaining the Blackrock Waterfowl Area spillgates, ditches, dikes, berms, ponds, and other features shown on Exhibit D that are above the annual average pre-LORP baseline cost of maintaining the ditches, spillgates, dikes, berms, and other features during the ten fiscal years between 1996-1997 and 2005-2006. The pre-LORP baseline cost of maintaining the Blackrock Waterfowl Area features shown on Exhibit D is \$62,798.00. When this pre-LORP baseline cost for maintaining the Blackrock Waterfowl Area features was adjusted through November 2009, an adjusted baseline cost of \$ \$67,380.00 resulted. Each January, this adjusted baseline cost of maintaining Blackrock Waterfowl Area features shall be annually adjusted upward or downward in accordance with the November Los Angeles-Anaheim-Riverside All Urban Consumers Price Index or its



successor. If, in the future, there is a significant change in non-LORP-related uses supplied by the Blackrock Waterfowl Area features shown on Exhibit D, the parties will renegotiate appropriate changes to this section.

7. The costs of beaver control and beaver dam removal.
8. The costs of salt cedar control that are covered by the funding for salt cedar control provided pursuant to Section 6 of the Stipulation and Order entered on September 15, 2004 in the case of *Sierra Club and Owens Valley Committee v. City of Los Angeles et al.* (case number S1CVCV01-29768).
9. The costs associated with the preparation of an annual report as required by Section 2.10.4 of the Final LORP EIR and by Section L of the Stipulation and Order. (The report shall include data collected during the year, results of analysis, and recommendations for the need for adaptive management measures.)
10. Unless otherwise agreed by the Parties, the costs of permits or environmental assessments associated with the conducting any of the activities described in an approved annual work plan or in an approved amended annual work plan including, but not limited to, California Department of Fish and Game 1601 permits, Regional Water Quality Control Board 401 permits, United States Army Corp of Engineers 404 permits, and any California Environmental Quality Act compliance. (The implementation of some post-implementation activities may be subject to the ability to obtain permits to conduct the post-implementation activities.)

#### **E. OTHER POST-IMPLEMENTATION WORK**

Any post-implementation cost or activity that the Parties deem necessary that is not listed in II.D above may be included in an annual work program and budget described in Section II.F below. Such costs and activities include, but are not limited to, adaptive management measures, control of noxious weeds within the LORP area, replacement of capital improvements, and salt cedar control attributable to the LORP that is proposed to be conducted that will cost more than the funding available for salt cedar control pursuant to Section 6 of the Stipulation and Order entered on September 15, 2004 in the case of *Sierra Club and Owens Valley Committee v. City of Los Angeles et al.* (case number S1CVCV01-29768).

#### **F. POST-IMPLEMENTATION WORK PLANS AND BUDGETS**

1. With regard to annual work plans and budgets, Section 2.2.1 of the Final LORP EIR provides in pertinent part as follows:

*Also, following the implementation of the LORP, in December of each year, the Technical Group will develop and adopt an annual work program describing the work to be performed in regard to the LORP (including the implementation of adaptive management*

*measures) during the following fiscal year. Each work program will identify who will perform or oversee the work, a schedule for the performance of the work and a budget. Following adoption by the Technical Group, the work programs will be submitted to the County and LADWP governing boards for consideration of approval. Meetings of each governing board are open to the public. Before the work plans and accompanying budgets can be implemented, they will have to be approved by each governing board.*

*If the Technical Group is in disagreement over the need to implement an adaptive management measure or over the content of a work program, the disagreement will be submitted to the Inyo County/Los Angeles Standing Committee ("Standing Committee") for resolution. The Standing Committee was formed in 1982 and consists of both managers and elected and appointed officials from the County and LADWP. Its meetings are open to the public. If the Standing Committee is unable to resolve a disagreement, the disagreement will be submitted to the governing boards of each entity for resolution. If the governing boards are unable to agree on all, or any part, of a work program, the portion of the program in disagreement will not be implemented. Further, if the governing boards are in disagreement over the need to implement an adaptive management measure, the measure will not be implemented.*

2. By approximately April 1, 2010, and by approximately the 1st of April of each following year, if the Technical Group is in agreement on an annual work plan and budget, then each Party shall submit to its governing board or to its designee a work plan and budget for any post-implementation cost or activity that is attributable to the LORP and that is planned to be conducted by the Parties during the year commencing the following July 1, together with a recommendation that the work plan and budget be approved. (A copy of the 2009-2010 Work Plan and Budget that has been approved by the Technical Group is attached as Exhibit E.) Each work plan shall include activities identified in Section II.D and may include activities described Section II.E. Each work plan and budget will identify the activities (including any adaptive management modifications deemed necessary) for each of the four LORP physical features (Riverine Area, Delta Area, Off River Lakes and Ponds, and the Blackrock Waterfowl Area) and any other components of the LORP.
3. Each work plan shall identify who will perform or oversee the work, activity or program (i.e., LADWP and/or the County and/or outside contractor), and shall include a schedule for the performance of the work, activity or program. For each item in the budget, the budget shall identify the work that will be conducted by each Party. Each work plan will divide the planned work using the procedure employed by the Parties in developing the 2009-2010 Work Plan and Budget. Each Party will bear its own costs for conducting its portion of the work described in the work plan. As may be applicable, the following principles shall

guide the assignment of labor rates in the preparation of a work plan and budget:

- a. If the Parties agree that LADWP will conduct work for the reason that LADWP would prefer to conduct the work even though the County is willing to perform the work, the costs of such work will be shared by the Parties using the County's labor rates (or a contractor's labor rates--whichever is lower).
  - b. If the Parties agree that LADWP will conduct work because the County is unable to conduct it, the costs of such extra work will be shared by the Parties based upon LADWP's labor rates.
  - c. If the Parties agree that the County will conduct work for the reason that the County would prefer to conduct the work even though LADWP is willing to perform the work, the costs of such work will be shared by the Parties based upon LADWP's labor rates.
4. If the work plan and budget calls for services or work to be performed by a contractor, the work plan will identify which Party will be responsible for awarding and administering each such contract. Beginning with the 2010-2011 fiscal year, the County will award and administer any contract with Ecosystem Sciences, Inc., unless otherwise agreed by the Parties, for work agreed upon by the Parties involving the LORP (exclusive of a contract for the management and monitoring of livestock grazing and utilization in the LORP area).
  5. In the event that the Technical Group is in disagreement over whether an item should be included in a work plan, over the amount of work performed on an item, over whether an item should be included in a budget, over the amount of an item to be included in a budget, or over another work plan-related item, the issue(s) in disagreement shall be submitted to the Standing Committee for resolution. If the Standing Committee resolves the disagreement, each Party will submit the recommended resolution to its governing board or to its designee, together with a recommendation that it be approved. If the Standing Committee cannot resolve a disagreement, the issues in disagreement will be submitted to the governing boards of each Party for resolution. Alternatively, before submitting the disagreement to the governing boards, the Standing Committee may agree to submit the disagreement to an impartial third party to review the issue or issues in disagreement and to issue a non-binding recommendation for resolution of the disagreement. If a third party recommendation is issued, and the disagreement is not resolved, the governing boards may consider the recommendation of the third party, but neither board is required to accept or implement the recommendation. If the governing bodies cannot resolve a disagreement, the activity or adaptive management measure in question will not be jointly conducted or funded; however, one Party may agree to conduct such an activity or implement an adaptive management measure at its own cost and to fund any increased costs (operation, maintenance, etc.) that result from the activity or measure in subsequent years. Concerning funding for activities

described in Sections II.D and II.E, Section 2.2.2.2 of the Final LORP EIR provides in pertinent part:

*As required by law, decisions as to the availability of funding for the LORP will be made annually by the Inyo County Board of Supervisors and by the LADWP Board of Water and Power Commissioners. In the event that one or both governing boards determine that there are insufficient funds available to cover the entity's share of the costs of the LORP, each entity will evaluate the situation and will take such action as it deems appropriate under the then existing applicable law.*

6. To the extent that the County finds that funding is available, the County will first provide funding for activities included in annual LORP work plans and budgets that are essential to complying with applicable court orders and legal commitments. A list of such activities, in descending order of priority, follows:
  - a. Work and activities required to maintain required flows in the river and required water supplies to the other components of the LORP.
  - b. Maintenance and operational costs associated with flow compliance monitoring and reporting required by the Stipulation and Order.
  - c. Habitat and water quality monitoring as described in the then current version of the LORP Adaptive Management Plan or required to comply with the requirements of Lahontan Region Water Quality Control Board.
  - d. The preparation of an annual report as required by Section 2.10.4 of the Final LORP EIR and by Section L of the Stipulation and Order.
  - e. Other work and activities including the implementation of adaptive management measures.
7. Once an annual work plan and budget have been approved, the County and LADWP shall each have the right to monitor and review the work and activities performed by the other Party to ensure compliance with the work plan and budget. Also, neither Party shall approve a change order or a modification of any contract that provides for work and services that are identified in the work plan as being jointly funded by the Parties unless the change order or modification has been approved by the Parties.

#### **G. AMENDMENT OF WORK PLANS AND BUDGETS**

1. In the event that the need to conduct post-implementation activity arises following the adoption of an annual work program and budget, the Technical Group shall develop an amended work program, a schedule, and an amended budget that identifies the work that will be conducted by each Party. The cost sharing for the work identified in the amended work plan shall be as provided in

Section F.3. The amended work plan and budget shall be submitted by each Party to its governing board or to its authorized designee together with a recommendation for approval.

2. In the event that the Technical Group is in disagreement over the amended work program or amended budget, the issues in disagreement shall be resolved as provided in Sections II.F.5 and II.F.6.

## **H. URGENT WORK**

1. In the event of a situation where it is necessary to immediately conduct post-implementation work or an activity in order to protect public health or safety, to comply with the provisions of the Stipulation and Order, or to ensure the integrity or the efficient operation of the project, LADWP and/or Inyo County, will conduct the work (or cause the work to be conducted). The Inyo County Administrator and the Manager of the Los Angeles Aqueduct will meet within 48 hours from commencement of the work and attempt to agree on the need for the urgent work. As soon as practicable thereafter, the Parties will prepare a report that describes the work conducted, the cost of the work, and a recommendation as to the portion of the cost of the work to be funded by each agency. In the event that these individuals are in disagreement over the need for the urgent work or the apportionment of costs, if the other Party does not object, the other Party may continue to conduct such an activity at the risk of assuming the entire cost of the activity being conducted.
2. If there is no agreement on the urgency of the activity or the cost apportionment, the issue(s) in disagreement shall be submitted to the Standing Committee for resolution. If they cannot resolve a disagreement, the issues in disagreement will be submitted to the governing boards of each Party for resolution. If the governing bodies cannot resolve a disagreement, the issues in disagreement shall be resolved as provided in Sections II.F.5 and II.F.6.

## **I. POST-IMPLEMENTATION THIRD PARTY FUNDING**

The Standing Committee may agree that the Parties will jointly seek funding from a third party for the post-implementation costs of the LORP. LADWP will not unreasonably withhold permission to the County for the use of Los Angeles-owned lands for a post-implementation project proposed to be funded by third-party funds as long as the proposed project is consistent with this agreement and the goals of the LORP. Any such jointly agreed upon third-party funds obtained will be expended as agreed by the Standing Committee. This provision for Standing Committee agreement on third-party funding does not preclude either Party from individually seeking funding from a third party to fund its share of the post-implementation costs of the LORP. However, unless the Parties otherwise agree upon an amendment to the work plan and budget, the receipt of funds from a third party by one Party will not affect the post-implementation funding commitment of the other Party. Moreover, it shall be the responsibility of the Party receiving the third-party funding to pay any costs and perform any compliance work related to the funding received.

## J. ADJUSTMENTS AND PAYMENTS

### 1. Initial Adjustment of the Post Implementation Credit

Within ten days of approval of this agreement by the governing boards of the Parties, LADWP shall adjust the Post Implementation Credit described in Recitals 7 and 8 by increasing it by 2.9 percent, an increase in accordance with the July 2007 Los Angeles-Anaheim-Riverside All Urban Consumers Price Index ("price index").

### 2. Debits and Payments

- a. Except for \$22,652.00 in costs for adaptive management measures that will be conducted during 2009-2010 that were not conducted in previous years, the County's share of the costs of the 2009-2010 work plan and budget (\$243,524.00) shall be the amount of the County's financial obligations for the June 11, 2007 to June 30, 2008 period and for the 2008-2009 fiscal year.
- b. Within 30 days after approval of this agreement by the governing bodies of the Parties, LADWP shall take the following actions in the following order:
  - i. To cover the County's obligation for July 11, 2007 to June 30, 2008 period, LADWP shall reduce the Post Implementation Credit by \$243,524.00.
  - ii. Increase the remaining balance of the Post Implementation Credit by 5.7% based upon the July 2008 price index.
  - iii. To cover the County's obligation for 2008-2009 fiscal year, LADWP shall reduce the Post Implementation Credit by the amount of \$243,524.00.
  - iv. Reduce the remaining balance of the Post Implementation Credit by 1.3% based upon the April 2009 price index.
  - v. Reduce the remaining balance by the amount of \$266,176.00, reflecting the County's share of the costs for the 2009-2010 work plan and budget, including adaptive management.
- c. Commencing on July 10, 2010, and effective as of July 10 of each following year for as long as a credit remains in the Post Implement Credit, LADWP shall adjust the amount of the credit upward or downward in accordance with the previous April's price index.

- d. On each July 21 following July 21, 2009 through July 21, 2021 (or on the next business day thereafter if a July 21 is not a business day) for as long as sufficient funds remain in the Post Implementation Credit, LADWP shall annually reduce the credit by the County's cost obligation identified in that year's annual work plan and budget approved pursuant to Section II.F.
  - e. Once the balance in the Post Implementation Credit has been reduced to an amount that is insufficient to cover the amount of the required debit, LADWP will reduce the Post Implementation Credit to zero, and the County will make a payment to LADWP from the Trust Account in the amount of the difference. Thereafter, on or before July 21 of each year through July 21, 2021, the County shall make an annual payment to LADWP from the Trust Account in the amount of the County's cost obligation identified in an annual work plan and budget approved pursuant to Section II.F.
  - f. If, on or before November 1, 2021, the amount remaining in the Trust Account is insufficient to cover a required payment to LADWP, the County shall pay the remaining balance in the Trust Account to LADWP and shall make a supplemental payment in the amount of the difference to LADWP; on or before November 1 of each year through November 1, 2021, the County shall make an annual payment to LADWP in the amount of the County's share of any post-implementation cost or activity (including adaptive management measures) identified in an annual work plan and budget approved pursuant to Section II.F.
  - g. If an amendment to a work plan and budget is agreed upon as provided in Section II.G or if a modification of a work plan and budget to conduct urgent work is agreed upon as provided in Section II.H, within 60 days of the agreement, either the Post Implementation Credit, and/or the Trust Account will be debited in the amount of the County's share of the increased costs or the County will make a payment to LADWP in the amount of the County's share of the increased costs.
  - h. Each year, at the election of the County, the County may reimburse itself from the Trust Account for LORP-related, non-reimbursed costs incurred by the County for activities or work performed by the County under an annual work plan and budget approved pursuant to Section II.F.
3. Annual Accounting Reports
- a. Beginning on October 31, 2009 and on or before each October 31 thereafter through October 31, 2022, an annual accounting report that describes the work performed pursuant to the previous year's approved work plan, and the costs incurred by each Party in performing such work shall be submitted to the governing board of each Party or the Party's designee. The accounting report will identify the difference, if any, between the actual costs incurred by each Party and the actual work performed by each Party as compared to the costs and work for that Party that were identified in that year's approved

work plan and budget. The costs will be documented by timesheets and other appropriate documentation. It is recognized that actual costs incurred by the Parties will likely be different than the amounts budgeted in the approved work plan(s). The accounting must be approved by the governing board of each Party or by the Party's designee.

- b. Except as provided in Section II.J.3.c below, if a Party fully performs the share of the work allocated to it in an annual work plan (as may be modified) and if the Party has fully funded its share of contract costs (as may be modified by change order) as identified in an annual budget, that party is in compliance with this agreement, and there shall be no reconciliation of hours or costs even if an annual accounting report or an audit shows that the Party expended more or less time in performing the work than was estimated in the annual work and/or budget. However, the results of any annual accounting report, audit, or other information maybe used to guide the development of future years' annual work plans.
- c. If an annual accounting report shows that the amount paid by a Party for contract services and/or contract work was less than the amount budgeted for the contract services and/or contract work, to reconcile the change with the approved budget, the accounting report will specify whether a payment should be made by LADWP to the County or whether a debit from the Post Implementation Credit and/or Trust Account or whether the County should make a payment to LADWP. (There is no need to reconcile increased contract costs since the work plan will be modified if, pursuant to Section F.8, there is an agreed upon contract change order that increases the cost of the contract.)
- d. At any time within three years after submission of the accounting, either Party shall have the right to conduct an audit of the expenditures itemized in the accounting by providing 30 days calendar notice to the other Party. The Party being audited shall provide the other Party with an office to conduct this audit along with all requested documents and information at no cost to the other Party. The Party conducting the audit shall bear the costs of conducting the audit. The Party conducting the audit shall promptly conduct and complete it and shall notify the other Party in writing of any expenditure that it believes is improper. The Party being audited shall promptly respond to any claim of an improper expenditure in writing. If the County and LADWP are in disagreement over whether an expenditure was improper, the matter will be submitted to the Standing Committee for resolution. If the Standing Committee is in agreement, the Parties will submit a proposed resolution of the matter, if any, to the governing boards of each entity or their designees. If the Standing Committee cannot agree, the issue(s) in dispute will resolved as provided in Section II.K.



**K. DISPUTE RESOLUTION**

1. Any dispute arising under this agreement that cannot be resolved by the Parties, except those disputes that are subject to dispute resolution under Sections II.F.5 and II.F.6, may be submitted to dispute resolution under Section XXVI of the Water Agreement. The Parties agree that because any dispute arising out of this agreement that has not been resolved by the Parties has already been considered by the Technical Group and the Standing Committee, dispute resolution under Section XXVI of the Water Agreement will commence by submitting the matter to mediation/temporary arbitration as described in Section XXVI.C of the Water Agreement.
2. Such mediation/temporary arbitration must be commenced by providing the Standing Committee with a written notice within 45 days of a failure by the governing boards of the Parties to resolve a dispute. A failure to submit the notice within the 45-day period shall be a waiver of the right to dispute an issue. The written notice shall describe the dispute and the disputing Party's argument in favor of its position. The other Party shall submit its argument in favor of its position to the other Party and to the mediators within 30 days of the submission of the initiating Party's notice. If, within 45 days of the submission of the responding Party's argument, the dispute has not been resolved, the mediators shall submit written findings to the Standing Committee. If a Party disagrees with the findings of the mediators, the dispute may be submitted to a Superior Court Judge as provided in Section XXVI.D of the Water Agreement.

**L. NO FINANCIAL SET OFF**

In the event that LADWP believes that this agreement has given rise to an obligation of the County that the County has not paid, in the absence of a final judgment from a court of competent jurisdiction that expressly allows LADWP to set off such an obligation of the County against any funding required to be provided or credited by LADWP to the County under the Water Agreement or under the LORP Funding Agreement, LADWP shall not reduce the amount of any payment to the County called for by the Water Agreement.

**M. AMENDMENTS**

This agreement may only be amended by written agreement of LADWP and the County. After the completion of the 2010-2011 fiscal year, the Parties will consider whether any of the other provisions of this agreement should be amended to better reflect the Parties' experience during the first five years of this agreement.

**N. AMENDMENT OF SECTION A.2 OF THE LORP FUNDING AGREEMENT**

The last sentence of the third paragraph of Section A.2 (page 5) of the LORP Funding Agreement between the County and LADWP provides that the County will only be required to pay its share of the LORP post-implementation costs from the Trust Account after the Post Implementation Credit has been fully expended.

Section II.J.2.h above provides that each year, at the election of the County, the County may reimburse itself from the Trust Account for LORP-related, non-reimbursed costs incurred by the County for activities or work performed by the County under an annual work plan and budget approved pursuant to Section II.F. In order to make the provisions of the LORP Funding Agreement and this agreement consistent, the last sentence of the third paragraph of Section A.2 (page 5) of the LORP Funding Agreement is amended to read as follows (amendments are shown in italics):

*Only after the credit has been fully expended will be the County be required to pay to LADWP its share of the LORP post-implementation costs from the trust account established pursuant to section B below; however, before the credit has been fully expended, the County may reimburse itself from the trust account for LOR- related, non-reimbursed costs incurred by the County for activities or work performed by the County that the County conducts under an annual work plan and budget that has been approved by the County and LADWP.*

**O. CONSULTATION WITH THE CALIFORNIA DEPARTMENT OF FISH AND GAME ON SEASONAL HABITAT FLOWS**

1. The 1997 Memorandum of Understanding between the City of Los Angeles Department of Water and Power, County of Inyo, California Department of Fish and Game (“DFG”), California State Lands Commission, Sierra Club, and the Owens Valley Committee, Section II.C.1.b.ii, addresses a seasonal habitat flow in the riverine riparian system. The section states:

*A seasonal habitat flow. It is currently estimated that in the years when the runoff in the Owens River watershed is forecasted to be average or above average, the amount of planned seasonal habitat flows will be approximately 200 cfs, unless the Parties agree upon an alternative habitat flow with higher unplanned flows when runoff exceeds the capacity of the Los Angeles Aqueduct. (The runoff forecast for each year will be DWP’s runoff year forecast for the Owens River Basin, which is based upon the results of its annual April 1 snow survey of the watershed.) In years when runoff is forecasted to be less than average, the habitat flows will be reduced from 200 cfs to as low as 40 cfs in general proportion to the forecasted runoff in the watershed. The amount of the annual habitat flow will be set by the Standing Committee, subject to any applicable court orders concerning the discharge of water onto the bed of Owens Lake and in consultation with DFG, and be based on the Lower Owens River Riverine-Riparian Ecosystem element of the LORP Plan, which will recommend the amount, duration and timing of flows necessary to achieve the goals for the system under varying hydrologic scenarios.*

2. In order to address the requirement that the amount of annual habitat flow will be set by the Standing Committee in consultation with DFG, including the amount, duration, timing, and ramping of water releases to the river, the following process will be followed.
  - a. Soon after the first of April each year, LADWP will develop its annual runoff year forecast for the Owens River Basin. The runoff year forecast will be developed as described in Section 2.3.5.3 of the LORP EIR. within 21 days of the release of runoff year forecast, LADWP and the County will transmit a recommendation or separate recommendations concerning the amount, duration, timing, and ramping of the seasonal habitat flow, along with LADWP's annual runoff year forecast for the Owens River Basin, to DFG. DFG will be requested to, within ten business days from receipt of the recommendation, provide their concurrence with the recommendations or provide their own recommendation as to the amount, duration, timing, and ramping of the seasonal habitat flow along with the scientific basis for its differing recommendation.
  - b. The Standing Committee will meet before the release of each seasonal habitat flow to consider setting the amount, duration, timing, and ramping of seasonal habitat flow. An action item entitled "Setting the Seasonal Habitat Flow" will be placed on the agenda of that Standing Committee meeting during which the LORP seasonal habitat flows will be considered. The Standing Committee will provide an opportunity for DFG to make a presentation at the meeting concerning its recommendations. Following the presentation, the Standing Committee will act on setting the seasonal habitat flow.

**P. CONSULTATION WITH THE CALIFORNIA DEPARTMENT OF FISH AND GAME ON THE AMOUNT OF FLOODED AREA IN THE BLACKROCK WATERFOWL HABITAT AREA**

1. Section II. C.4 of the 1997 Memorandum of Understanding between the City of Los Angeles Department of Water and Power, County of Inyo, California Department of Fish and Game, California State Lands Commission, Sierra Club, and the Owens Valley Committee, addresses the "1500 Acre Blackrock Waterfowl Habitat Area." The section states:

*Approximately 500 acres of the habitat area will be flooded at any given time in a year when the runoff to the Owens River Watershed is forecasted to be average or above. In years when the runoff is forecasted to be less than average, the water supply to the area will be reduced in general proportion to the*

*forecasted runoff in the watershed. (The runoff forecast for each year will be DWP's runoff year forecast for the Owens River Basin, which is based upon the results of its annual April 1 snow survey of the watershed.) Even in the driest years, available water will be used in the most efficient manner to maintain the habitat. The Wildlife and Wetlands Management Plan element of the LORP Plan will recommend the water supply to be made available under various runoff conditions and will recommend how to best use the available water in dry years. The amount of acreage to be flooded in years when the runoff is forecasted to be less than average will be set by the Standing Committee based upon the recommendations of the Wildlife and Wetlands Management Plan and in consultation with DFG."*

2. In order to address the requirement that when runoff is forecasted to be less than average, the amount of acreage to be flooded will be set by the Standing Committee in consultation with DFG the following process will be followed.
  - a. Soon after the first of April each year, LADWP will develop its annual runoff year forecast for the Owens River Basin. The runoff year forecast will be developed as described in Section 2.3.5.3 of the LORP EIR. In the event the runoff forecast equals or exceeds "normal runoff" as defined in Section 2.3.5.3 of the 2004 Final LORP EIR, no further action is required.
  - b. If the runoff forecast is for less than the normal runoff, the year will be considered a Dry Year, and consultation with the Department of Fish and Game ("DFG") will occur on the development of a Dry Year Blackrock Management Plan. In a Dry Year, by approximately the second or third week in April, LADWP and the County will transmit the recommendation concerning the amount of acreage to be flooded, along with LADWP's annual runoff year forecast for the Owens River Basin to DFG. DFG will be requested to, within ten business days from receipt of the recommendation, provide their concurrence with the recommendation or provide their own recommendation as to the amount of acreage to be flooded, along with the scientific basis for its differing recommendation.
  - c. In dry years when DFG has a differing recommendation, a report on the difference will be provided to the Standing Committee and a Standing Committee meeting will be scheduled. An action item entitled "Establishment of Dry Year Blackrock Management Plan" will be placed on the Standing Committee agenda. The Standing Committee will provide an opportunity for DFG to make a presentation at the meeting concerning its recommendations. Following any such presentation by DFG, the Standing Committee will consider adoption of a Dry Year Blackrock Management Plan.

**Q. LONG TERM 1600 AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF FISH AND GAME**

Section II.I.2 of the MOU requires a long-term agreement with DFG under Section 1601 of California Fish and Game Code “that covers any such activities that are described and addressed in the LORP EIR.” LADWP is seeking this agreement with DFG and began discussions with DFG and the County on draft of the agreement in September 2008. DFG released a copy of LADWP’s 1600 application to the parties to the MOU in June 2009. LADWP shall consult with the County prior to entering into the agreement (and visa versa if the County is required to enter into its own 1600 agreement).

**R. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The Final LORP Monitoring, Adaptive Management and Reporting Plan, prepared by Ecosystem Sciences Inc. and dated April 28, 2008, made a change to the project description contained in the LORP EIR by adding augmentation of seasonal habitat flows as an adaptive management measure. LADWP has prepared and released to the parties to the MOU an addendum to the Final LORP EIR that addresses this change.

**S. CONSULTATION WITH THE LORP ADVISORY COMMITTEE**

1. The Final LORP Monitoring, Adaptive Management and Reporting Plan dated April 28, 2008 provides that a LORP Advisory Committee consisting of DFG, the Sierra Club, the Owens Valley Committee and LADWP lessees in the Owens Valley will be consulted at least twice in each monitoring year. Section 3.3 of the LORP Adaptive Management Plan (pages 3-6) provides that the first consultation will occur after the annual “rapid assessment survey” to inform the parties and alert them to issues or concerns that will need to be dealt with when making adaptive management decisions. The Advisory Committee will be provided with a communication on the issues and concerns derived from the annual rapid assessment survey, and the Advisory Committee will be invited to submit written comments on the need for adaptive management that are based upon the results of the survey.
2. Section 3.3 of the LORP Adaptive Management Plan (pages 3-6) also provides that a second consultation will occur once the “Scientific Team” has drafted its recommendations for adaptive management and compiled monitoring data and analyses. In accordance with Section L of the July 2007 Stipulation and Order, the Advisory Committee and the public will be provided with the draft of the annual LORP report, which will include “results of analysis and recommendations on the need for adaptive management actions” (described in Section 2.10.4 of the Final LORP EIR), at least 15 days in advance of a public meeting on the information contained in the report. The Advisory Committee

and the public will have the opportunity to offer comments on the draft report within a 15-day period following the public meeting. Following consideration of any comments submitted, the Technical Group will conduct a meeting as described in Section 2.10.4 of the Final LORP EIR.

## **T. TERM**

The provisions of this agreement will terminate on July 11, 2022; however, for the purpose of allowing for an audit to be conducted pursuant to Section II.J.3.d, and to allow time for the reconciliation of any accounting disputes that may arise under Section II.J.3.d the Parties agree that the applicable provisions of the agreement will be extended as necessary for those limited purposes. The Parties will make a determination of the obligations for any ongoing operation and maintenance activities and associated funding at the time of the effective termination of this agreement.

## **U. NOTIFICATIONS**

Any notification required by this Agreement shall be made as set forth below. A change in the recipient or a change of the address of a recipient will be provided in writing to the other Party.

To the County:

Inyo County Administrator  
P.O. Drawer N  
Independence, California 93526  
Email: kcarunchio@inyocounty.us

Director, Inyo County Water Department  
P.O. Box 337  
Independence, California 93526  
Email: bharrington@inyocounty.us

To LADWP:

Director of Water Operations  
Box 51111  
Room 1460  
Los Angeles, California 90051-5700  
Email: martin.adams@ladwp.com

Manager, Aqueduct Business Group  
300 Mandich Street  
Bishop, California 93514-3449  
Email: gene.coufal@ladwp.com

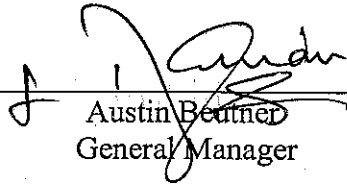
Lower Owens River Project Post Implementation Agreement  
(With Technical Corrections of May 18, 2010)

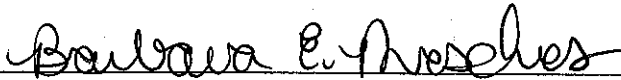
IN WITNESS WHEREOF, the City of Los Angeles Department of Water and Power and the County of Inyo have caused this Lower Owens River Project Post Implementation Agreement to be executed by their duly authorized representatives.

City of Los Angeles Department of Water and Power

DEPARTMENT OF WATER AND POWER  
THE CITY OF LOS ANGELES BY THE  
BOARD OF WATER AND POWER COMMISSIONERS  
OF THE CITY OF LOS ANGELES

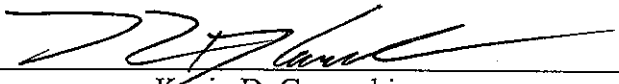
Dated: 6/1/10

By:   
Austin Beutner  
General Manager

And:   
Secretary

County of Inyo

Dated: 06-15-2010

By:   
Kevin D. Carunchio  
Inyo County Administrator

AUTHORIZED BY RES. 010 323  
MAY 18 2010

APPROVED AS TO FORM AND LEGALITY  
CARMEN A. TRUTANICH, CITY ATTORNEY

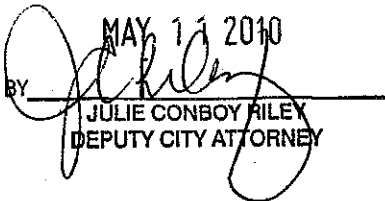
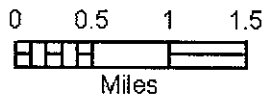
MAY 11 2010  
BY   
JULIE CONBOY RILEY  
DEPUTY CITY ATTORNEY

Exhibit A

SHEET 1 of 4

LORP  
Inyo County & LADWP  
Maintained Roads



- INYO COUNTY MAINTAINED ROADS
- LADWP MAINTAINED ROADS

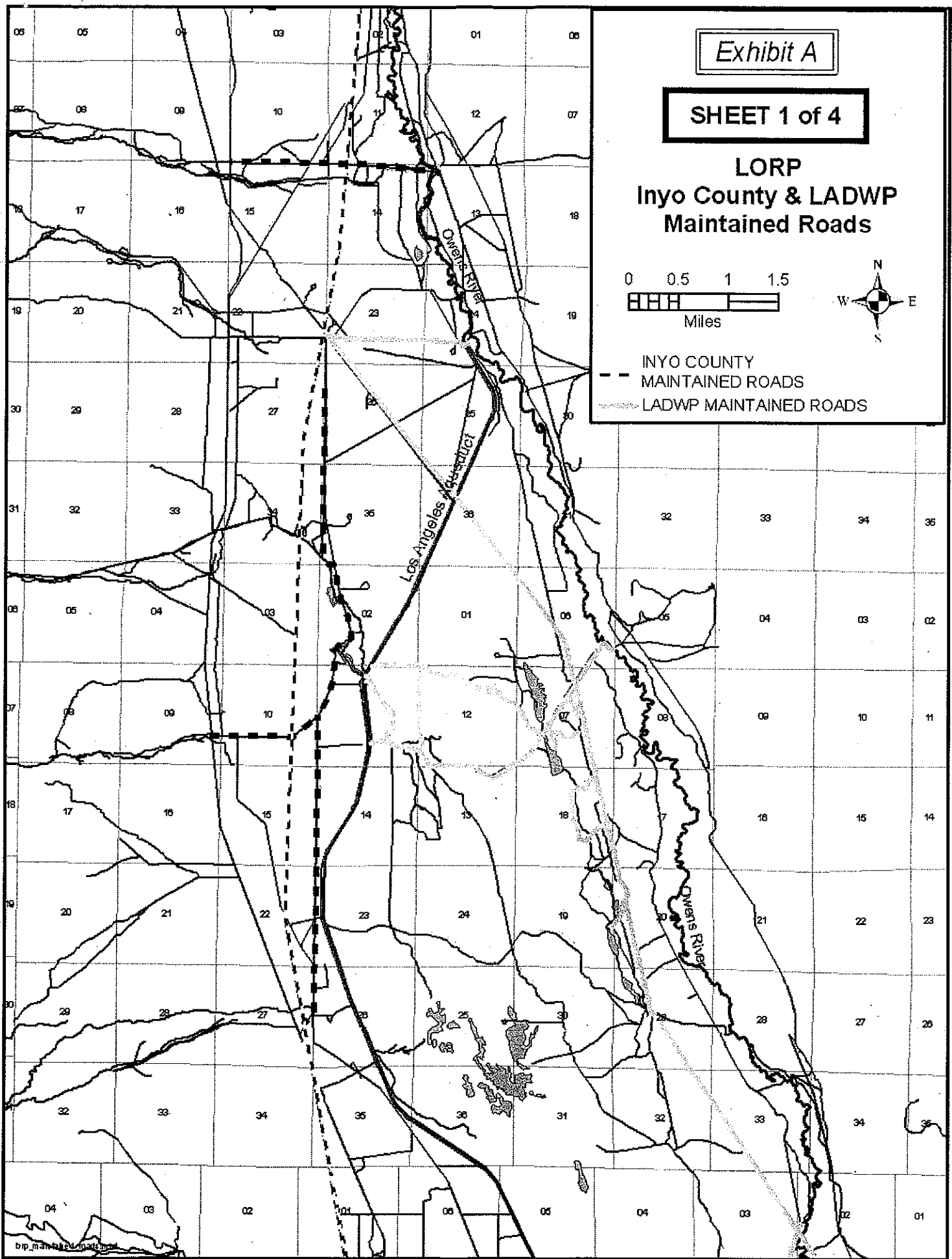
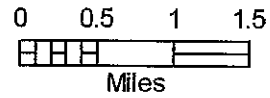




Exhibit A

SHEET 2 of 4

LORP  
Inyo County & LADWP  
Maintained Roads



- INYO COUNTY MAINTAINED ROADS
- LADWP MAINTAINED ROADS

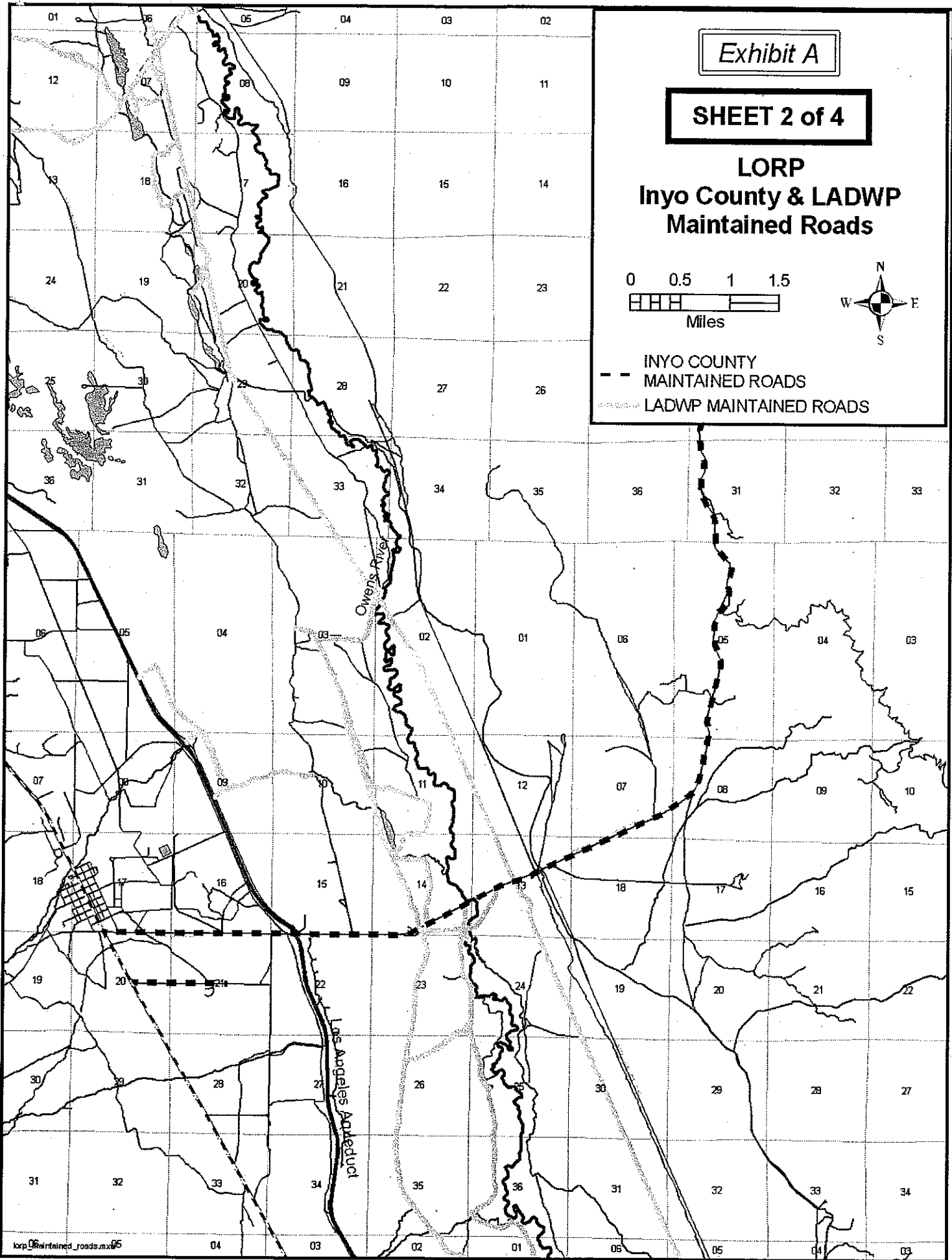
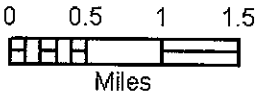


Exhibit A

SHEET 3 of 4

LORP  
Inyo County & LADWP  
Maintained Roads



--- INYO COUNTY  
MAINTAINED ROADS  
- - - LADWP MAINTAINED ROADS

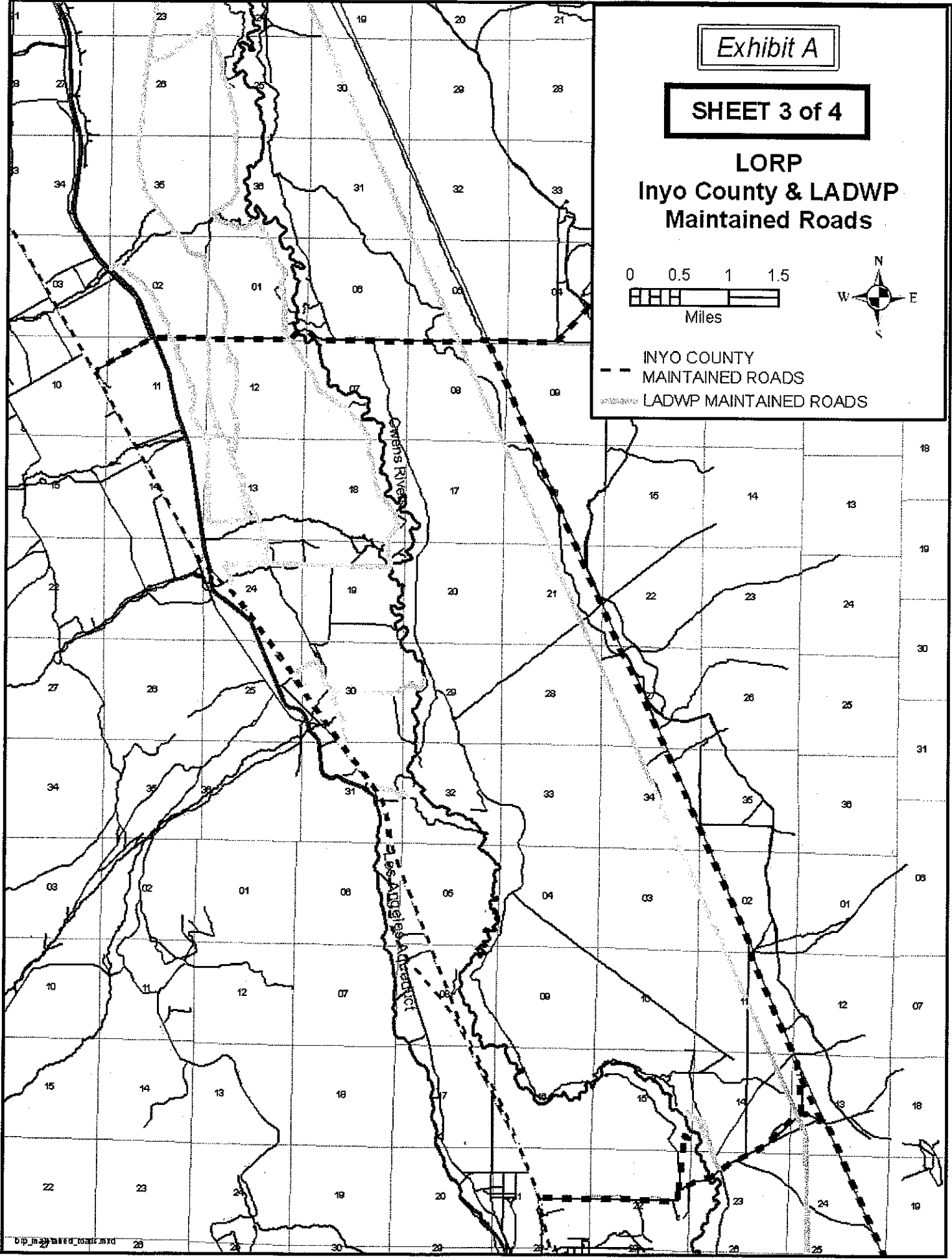
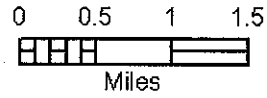


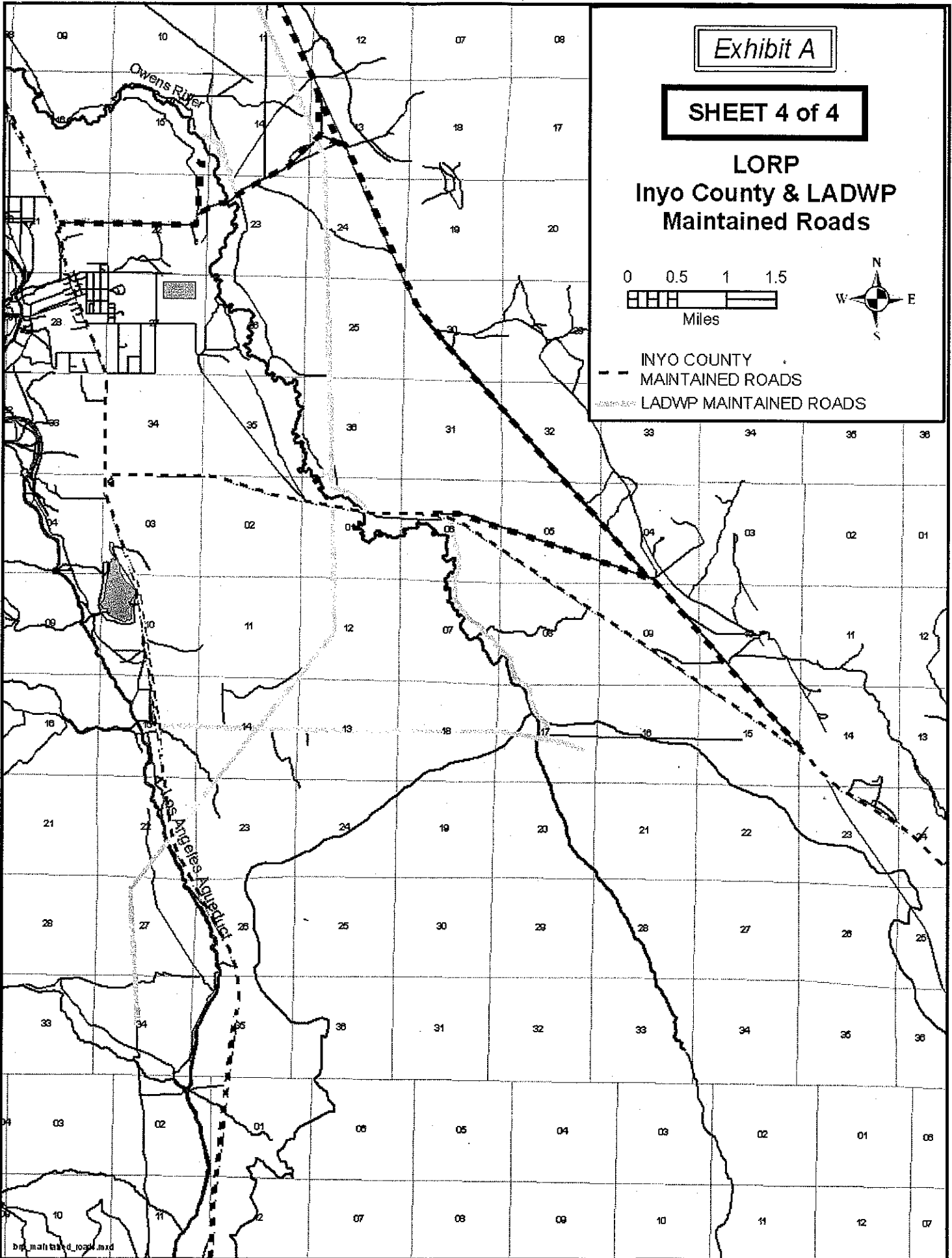
Exhibit A

SHEET 4 of 4

LORP  
Inyo County & LADWP  
Maintained Roads

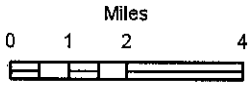


INYO COUNTY  
MAINTAINED ROADS  
LADWP MAINTAINED ROADS



**Exhibit B**

**LORP  
Location Map  
Permanent Flow Gaging Stations**



INDEPENDENCE

OWENS RIVER AT INTAKE

LOS ANGELES

LOWER

OWENS

AQUEDUCT

RIVER

MAZOURKA CANYON RD.

OWENS RIVER AT MAZOURKA CYN RD

395

MANZANAR REWARD RD

OWENS RIVER AT REINHACKLE SPRINGS

LONE PINE

136

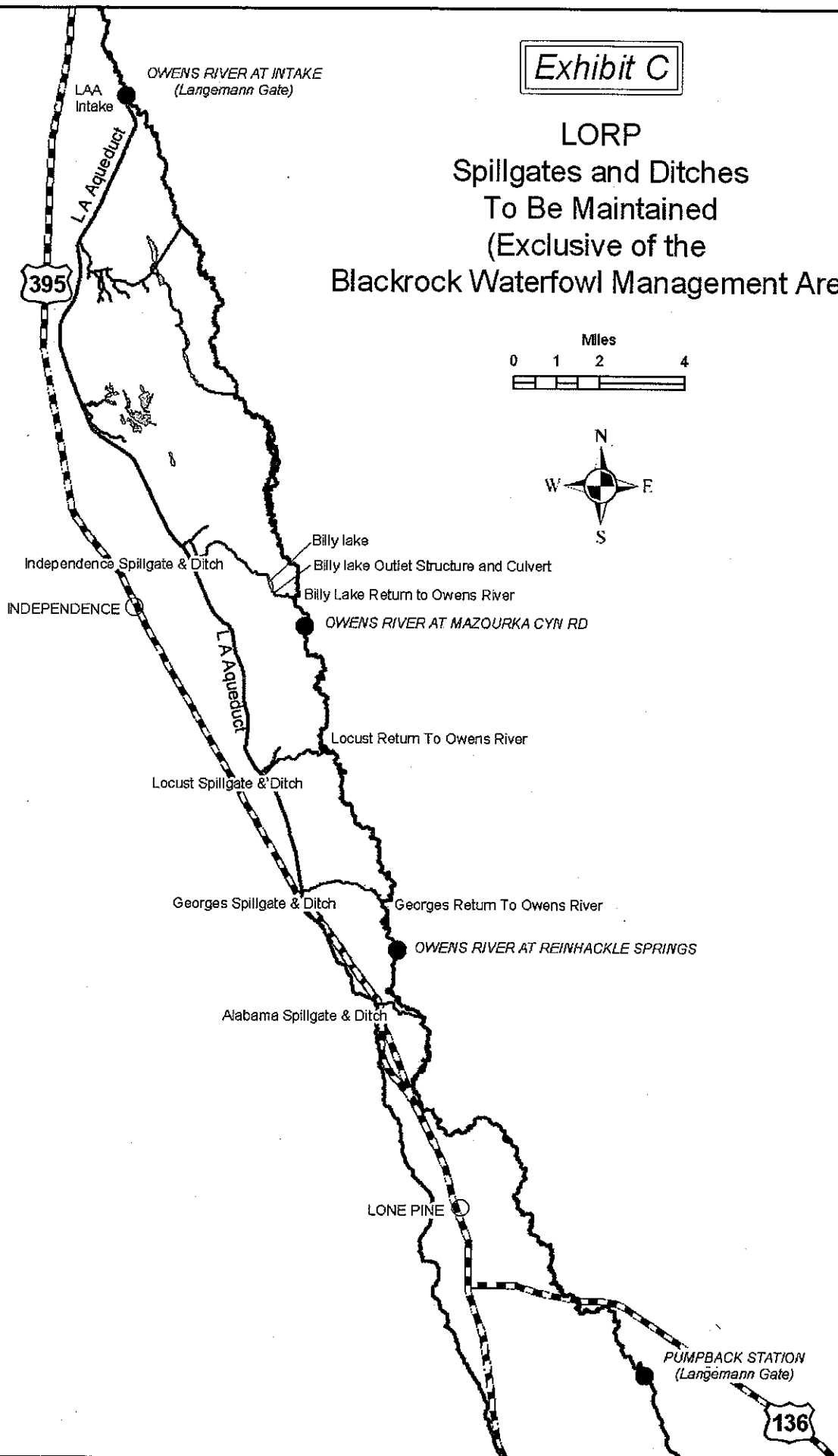
PUMPBACK STATION  
- STATION OUTFLOW  
- LANGEMANN GATE  
- POND SPILLWAY

**Legend**

- MEASURING STATIONS
- DITCHES AND OWENS RIVER
- LOS ANGELES AQUEDUCT

**Exhibit C**

**LORP  
Spillgates and Ditches  
To Be Maintained  
(Exclusive of the  
Blackrock Waterfowl Management Area)**





*Exhibit E*

**2009-2010 Fiscal Year**  
**Lower Owens River Project**  
**Workplan and Budget**

**FINAL**  
**Prepared by Inyo County Water Department**  
**and**  
**Los Angeles Department of Water and Power**  
**March 30, 2009**

## **2009 – 2010 Fiscal Year Lower Owens River Project Workplan**

This 2009-2010 Fiscal Year (July 1 to June 30) Lower Owens River Project Workplan was jointly prepared by staff of the Inyo County Water Department and the Los Angeles Department of Water and Power. This workplan was adopted by the Inyo County/Los Angeles Technical Group on March 30, 2008. The Technical Group recommends that the 2009-2010 Fiscal Year Lower Owens River Project Workplan be approved by the Inyo County Board of Supervisors and the City of Los Angeles Board of Water and Power of Commissioners.

### **Introduction**

The Final Environmental Impact Report for the Lower Owens River Project Section 2.2.1 provides that in December of each year, the Long-Term Water Agreement (LTWA) Technical Group will develop and adopt an annual work program for the Lower Owen River Project (LORP) describing work regarding the LORP to be performed in the following fiscal year, including implementation of adaptive management measures. Each work program will identify who will perform or oversee tasks, a schedule, and a budget. Following adoption by the Technical Group, the work programs will be submitted to the County and LADWP governing board for approval. Before a work plan and budget can be implemented, it must be approved by each governing board. This document is the work plan for fiscal year July 2009 – June 2010.

The objectives of this work plan are to maintain compliance with the July 11, 2007 Superior Court Stipulation and Order in case no. S1CVCV01-29768, conduct monitoring necessary to achieve the LORP goals described in the 1998 Memorandum of Understanding, maintain infrastructure necessary to the operation of the LORP, and implement adaptive management measures. The following priorities are observed in this workplan:

1. Work and activities required to maintain required flows in the river and required water supplies to other LORP components.
2. Maintenance associated with flow compliance monitoring and reporting associated with the above referenced Stipulation and Order.
3. Habitat and water quality monitoring described in the *LORP Monitoring and Adaptive Management Plan* (ESI 2008), or required to comply with the requirements of the Lahontan Regional Water Quality Control Board.
4. The preparation of the LORP Annual Report as required by Section 2.10.4 of the LORP Final EIR and by Section L of the above referenced Stipulation and Order.
5. Other work or activities including the implementation of adaptive management measures.

Section 1 of this workplan covers maintenance, monitoring, mosquito abatement, weed management, salt cedar control, and operations. Section 2 of this workplan addresses adaptive management measures. Weed management and Saltcedar control activities are tasked and funded under separate agreements and not described in this work plan.



## 2009 – 2010 Fiscal Year Lower Owens River Project Workplan

Summary 2009- 2010 fiscal year Monitoring and Adaptive Management Budget.

| Category                   | Total            |
|----------------------------|------------------|
| Hydrologic monitoring      | \$255,953        |
| Biologic and Water Quality | \$77,989         |
| Maintenance                | \$239,187        |
| Mosquito Abatement         | \$127,000*       |
| Adaptive Management        | \$45,304         |
| <b>Total</b>               | <b>\$745,433</b> |

\* includes \$67,000 contingency for aerial applications

The budget amount reflects the additional costs above equal sharing of work by the parties and does not include the costs of Inyo and LA staff times where they offset.

# 2009 – 2010 Fiscal Year Lower Owens River Project Workplan

## Section 1. Maintenance and Monitoring Tasks

The maintenance and monitoring portion of this work plan consists of seven categories of tasks: maintenance, hydrologic monitoring, biological/water quality monitoring, range monitoring, mosquito abatement, weed management, and salt cedar control .

Maintenance. Maintenance activities consist of cleaning sediment accumulations and other obstructions from water measurement facilities, cleaning sediment and aquatic vegetation from ditches, mowing ditch margins, fence repair, and adjustments to flow control structures. Estimates of the level of effort necessary for maintenance were based on the level of effort that was required during 2008 – 2009.

Hydrologic Monitoring. Hydrologic monitoring consists of monitoring, analyzing, and reporting river baseflows and seasonal habitat flows, the flooded extent of the Blackrock Waterfowl Management Area (BWMA), the levels of the Off-River Lakes and Ponds, and baseflows, pulse flows, and seasonal habitat flows to the Delta. Estimates of the level of effort required for hydrologic monitoring were based on the level of effort required during 2008 – 2009, with the exception that it was assumed that the number of measuring stations in the river corridor would be reduced to four, and that the temporary flow measurement stations in the delta will be discontinued. This assumption is based on the Standing Committee taking action on the permanent monitoring stations early in the 2009-2010 fiscal year.

Currently, the flooded acreage of the BWMA is being measured by walking the perimeter of the flooded area on foot with GPS every two weeks. Based on the measured flooded area, flows have been adjusted to maintain a fixed acreage. Two problems have arisen: (1) because the flows have been adjusted constantly, no relation has been apparent between water inputs and flooded acres, and (2) walking the perimeter of the flooded area has proven prohibitively costly due to the man-hours required. Discussion on changing the method of determining the flooded extent by, developing a relationship between applied water and flooded acreage by holding the inflow rate constant and allowing the flooded area to equilibrate to an approximately fixed acreage are ongoing. Under this proposed monitoring method, the acreage will be measured on foot twice per quarter (approximately every six weeks) with intermediate assessments of flooded acreage by using remote sensing. If this monitoring is utilized, the budget for hydrologic monitoring will be reduced by \$72,524.

Biological/Water Quality Monitoring. Biological and water quality monitoring is related to the tasks indicated in the Table 4.01 of the LORP Monitoring and Adaptive Management Plan (MAMP). Note that baseflow compliance, BWMA flooded extent, and Off-River Lakes and Ponds flooded extent are considered under Hydrologic Monitoring above. It is assumed that most monitoring will be jointly conducted by Inyo and LA and that the hours of each agency spend during 09-10, will offset one another. Range trend work will be planned, budgeted, and conducted by LADWP and is not included in this work plan. Fish condition monitoring is incorporated into the budget for water quality measurements. Ecosystem Sciences Incorporated, the MOU Consultant, will be involved with the Rapid Assessment Surveys, Baseflow Water Quality, Seasonal Habitat Flow, Seasonal Habitat Flooding Extent, Seasonal Flow Water

## 2009 – 2010 Fiscal Year Lower Owens River Project Workplan

Quality, Avian Census', Landscape Vegetation Mapping, and the Annual Report Preparation including adaptive management recommendations.

Range Monitoring. Range monitoring is related to the tasks described in section 4.6 of the MAMP. Three types of monitoring will take place that are directly related to the management of livestock grazing: irrigated pasture condition scoring, utilization and range trend. Irrigated pasture condition scoring is a tool used by managers to systematically track the condition of irrigated pastures. Utilization monitoring tracks the amount of biomass removed from non-irrigated fields and Range trend tracks the long-term effect of grazing and grazing management prescriptions on the grazing resource. Additionally, annual field inspections and evaluations will be conducted. Range monitoring will be conducted by LADWP and is not a shared cost, and therefore not budgeted in this work plan.

Mosquito Abatement. For the fiscal year 2009–2010, the Owens Valley Mosquito Abatement Program (OVMAP) plans to continue a comprehensive Integrated Mosquito Management Plan (IMMP) when addressing the new and developing sources within the LORP in accordance with its mission of protecting public health. This IMMP consists of an expansion of currently used materials and methods for the surveillance and control of mosquitoes across the OVMAP boundary as well as contingency planning for late season flushing flows. This budget anticipates field surveillance of potential larval habitat for mosquito production, larviciding, pupaciding, adult mosquito surveillance with light traps, mosquito borne disease surveillance, and treatment for adult mosquitoes.

The budgeted amount of \$127,000 includes a contingency of \$67,000 in the event that supplementary aerial treatments are necessary. The use of this contingency required concurrence by both the Inyo County Chief Administrative Officer and LADWP's Aqueduct Manager.

Weed Control. The Inyo/Mono Counties Agricultural Commissioner's Office receives funding from LADWP to control and eradicate several different invasive weed species both within the LORP boundaries, and in areas within the watershed that that may serve as a seed source that could impact the LORP area. These invasive weed species include: *Lepidium latifolium*, *Acroptilon repens*, *Cirsium arvense*, *Centaurea solstitialis*, *Centaurea maculosa*, and *Cardaria draba*. These populations are managed using integrated pest management methods, including mechanical, chemical and biological controls. Currently, there are 98 separate sites, on LADWP lands, spread over an area of 29,755 gross acres that Agricultural Commissioner's Office manages. Of these sites, 12 are within the LORP boundaries.

Along with weed treatment activities, the Agricultural Commissioner's Office provides mapping and monitoring of these infestations from year to year. Information gathered includes net and gross acreage, species, location, and the date when the selected management activity was conducted. The Agricultural Commissioner's Office also provides outreach to the public that is specific to the weed issues threatening the LORP, through educational materials targeting recreationalists visiting the area, and responds to and interacts with the public regarding any new weed locations found within the LORP area. LORP weed control activities are funded through

## 2009 – 2010 Fiscal Year Lower Owens River Project Workplan

agreements outside of the LORP Annual Work Plan, and are therefore not included in the budget presented here.

Saltcedar Control. The County Water Department's saltcedar control program will concentrate on the tributaries to the Lower Owens River channel. The purpose of working on the LORP is to reduce the likelihood of the creeks and streams spreading saltcedar throughout the Owens River re-watered channel. The current focus is to reduce the chance of infestation by treating areas in the river drainage basin. One permanent, one shared employee and six seasonal field assistants are expected to work on the control program during the treatment season (December-March). Monitoring and follow-up treatments by the Saltcedar Project Coordinator will occur during the balance of the year. LORP saltcedar control activities are funded through agreements outside of the LORP Annual Work Plan, and are therefore not included in the budget presented here.

### Maintenance and Monitoring Tasks Budget

The attached spreadsheets provide the budgets for hydrologic monitoring, biologic/water quality monitoring, maintenance, and mosquito abatement. The following table summarizes the costs of the monitoring for the fiscal year July 1, 2009 through June 30, 2010 and specifies the costs incurred by Inyo County, Los Angeles and the cost of the MOU consultant.

| Category                   | Inyo costs      | LA costs         | MOU Consultant  | Total Cost       |
|----------------------------|-----------------|------------------|-----------------|------------------|
| Hydrologic monitoring      | \$0             | \$255,953        | \$0             | \$255,953        |
| Biologic and Water Quality | \$8,779         | \$0              | \$71,210        | \$77,989         |
| Maintenance and Operations | \$0             | \$239,187        | \$0             | \$239,187        |
| Mosquito control           | \$63,500        | \$63,500         | \$0             | \$127,000        |
| <b>Total</b>               | <b>\$70,279</b> | <b>\$558,640</b> | <b>\$71,210</b> | <b>\$700,129</b> |

## **2009 – 2010 Fiscal Year Lower Owens River Project Workplan**

Generally, staff hours for the Inyo County and LADWP to conduct the biologic and water quality monitoring offset one another. There are 367 total people days necessary to complete the proposed biological and water quality monitoring, of which Inyo has 19 more people days allocated than LADWP. There is no offset for the Maintenance, Operations, or Hydrologic monitoring to be performed by LADWP. Additionally, LADWP has allocated 245 people days for Range Monitoring which is not a shared monitoring cost. Based on this budget, Inyo is required to compensate Los Angeles \$279,786 for the differential in expenditures for Maintenance, Operations, and Hydrologic monitoring. This value is calculated by subtracting the dollars Inyo County will spend during the fiscal year from the amount spent by LADWP and dividing the difference in half and adding half of the cost of the MOU Consultant. If the alternative monitoring plan for the BWMA is approved, this cost would be reduced by \$36,262 to \$243,524. Inyo County's cost share of implementing the Adaptive Management Measures is an additional \$22,652.

### **Section 2. Adaptive Management Measures**

The Adaptive management recommendations made by the MOU consultant for inclusion in the LORP Annual Report to the Standing Committee have been copied in their entirety below. Recommendations for the Rapid Assessment Surveys, Water Quality, and Land Use are in progress at this time or will be incorporated in the upcoming field seasons monitoring efforts. The Workplan and Budget associated with the MOU consultant recommendations for the Blackrock Waterfowl Management Area are described in this section, and also above under the hydrologic monitoring section. The Workplan and Budget associated with the Delta Habitat Area follow below. Based on comments received on the River Flow recommendation from the LORP Annual Monitoring Report, Inyo County and LADWP believe that prior to the development of a workplan for that item, an MOU Group meeting must be held to discuss how to move forward.

# 2009 – 2010 Fiscal Year Lower Owens River Project Workplan

Table of Adaptive Management Recommendations. LORP Annual Report 2008.

| Management Area                            | Recommendation and/or Action  |
|--|---|
| Rapid Assessment Survey (RAS)              | <ul style="list-style-type: none"> <li>• <b>Report Composition:</b> Develop consistent documentation and reporting template that will enable better comparison between years of data collection.</li> <li>• <b>Data Organization and Management:</b> Future RAS efforts should include a categorical data element. Annual data collection needs to be integrated in order to better analyze changes from year to year.</li> <li>• <b>Noxious Weeds:</b> Perennial pepperweed was detected at four different sites and appear(s) to have spread from previous years. Locations should be verified and treated multiple times to prevent further expansion.</li> <li>• <b>Exotic Weeds:</b> 2008 RAS noted dense stands of smartweed encompassing much or all of the floodplain over a roughly 10 mile section of the river. This presents an opportunity for adaptive management. Control methods including physical, biological control, and chemical control. We recommend developing a study design of one or more methods of control to be used to treat selected sections of the infestation and monitor results.</li> <li>• <b>Woody Recruitment:</b> Woody recruitment appears to be occurring throughout the floodplain. Future data collection efforts should include categorical data documenting the number of new sprouts per location.</li> <li>• <b>Grazing Management Issues:</b> Supplemental feeding sites within the floodplain. Feeding/supplemental areas are not permitted within the riparian and floodplain areas. Consultation with lessees and removal.</li> <li>• <b>Tamarisk:</b> Request more information and the spatial data on the specific locations where tamarisk eradication was performed. 2008 RAS documented 700 tamarisk points, but reporting issues confounded results. Using categorical data for tamarisk results would alleviate many reporting issues. Data confusion and tabulation makes it difficult to make adaptive management recommendations concerning tamarisk.</li> <li>• <b>Tamarisk Seedlings:</b> 2008 RAS seeding sites all need to be visited, verified and treated.</li> <li>• <b>Tamarisk Slash:</b> large slash piles should continue to be chipped, burned and/or removed from the streambanks. File new slash in appropriate areas, not on streambanks, where LADWP can dispose of them.</li> <li>• <b>Roads:</b> Data management and density of road abundance and impacts is needed.</li> <li>• <b>Trash:</b> removal and proper disposal of several large appliances dumped into the floodplain.</li> <li>• <b>Beaver:</b> No recommended action.</li> </ul> |
| Water Quality                              | Recommend establishing a standard of 1.0 mg/l dissolved oxygen exhibiting a downward trend, as the threshold beyond which corrective action is taken.   |
| River Flow                                 | Adaptive management decisions on adjusting river flows to improve tule management and water quality should be based on careful analysis of various flow scenarios. Recommend a thorough analysis of possible flow changes using current river baseline conditions and high-resolution modeling to produce a detailed report for MOU parties on flow alternatives and scenarios.   |
| Blackrock Waterfowl Management Area (BWMA) | <ul style="list-style-type: none"> <li>• Prepare Waggoner and Drew units for conversion. Burn non-forage, dense vegetation areas in Waggoner this winter. Temporarily fence Drew to graze off the forage rather than waste it by burning. Construct berms and two water control structures in Drew unit per plan specifications.</li> <li>• Initiate a partial draw down of the Winterton and Thibaut units as Waggoner and Drew are flooded beginning in the spring. Additional flooding can be performed at Thibaut, if acreage is needed.</li> <li>• Maintain the 28 acres of Thibaut ponds.</li> <li>• Develop a relationship between inflow and wetted area so that management is based on inflow with regular on-the-ground measurements of wetted area.</li> <li>• Manage wetted area with a continuous inflow so that natural, seasonal variations in water fluctuations will be emulated without extreme fluctuations.</li> <li>• Identify a method that is applicable to all the BWMA units for developing regression equations that relate wetted area to inflow volume by season.</li> <li>• During the dry phase in Thibaut, complete construction of the berm described in the project implementation plans at the southern end of the unit to confine flow and wetted perimeter.</li> </ul>  |
| Delta Habitat Area (DHA)                   | <ul style="list-style-type: none"> <li>• Need to meet Brine Pool flow requirements of continuous minimum flow of 0.5cfs for one year.</li> <li>• Recommend evaluating the DHA to determine what changes may have occurred to vegetation resources (acreage and composition) prior to making any adaptive management decisions or modifications to seasonal pulse flows this spring, 2009.</li> </ul>  |
| Land Use                                   | <ul style="list-style-type: none"> <li>• No data tables that displayed all data collected were available to review. Ecosystem Sciences was not able to verify the conclusions reached for landuse compliance without examination of the data set.</li> <li>• Summarized data results reported for this year indicates that all irrigated pastures were monitored and all are in compliance.</li> <li>• Recommend that LADWP complete their transect placement in all pastures and fields and collect and report a complete set of utilization, irrigated pastures and range trend monitoring data for the 2009.</li> <li>• Recommend that all livestock grazing plans be reviewed and updated so they are compatible with the LORP Monitoring, Adaptive Management and Reporting Plan.</li> <li>• Lessee consultations as soon as possible.</li> <li>• Recommend that each grazing lease have its own monitoring sub-plan that includes the location of transects and utilization cages on each pasture and field.</li> <li>• Recommend that all fences necessary to manage grazing be completed as soon as possible – well before the end of 2009.</li> </ul>  |

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## Modification of flow management and flooded area measurement in the BWMA

The 1997 MOU calls for "Approximately 500 acres of the habitat area will be flooded at any given time in a year when the runoff to the Owens River watershed is forecast to be average or above average. In years when the runoff is forecasted to be less than average, the water supply to the area will be reduced in general proportion to the forecasted runoff in the watershed." The relationship between Owens Valley runoff to flooded acreage is further described in Ecosystem Sciences August 2002 LORP Plan and Section 2.5.5 of the 2004 LORP EIR. Regulation of water delivery to maintain a set flooded acreage has proven difficult and the resulting relation between water supplied and flooded acreage has been erratic. Recognizing that the relationship between the amount of flooded acreage and water release to the habitat area is poorly known and will continue to be so, at least, until an adequate data base is developed, maintaining the required flooded acreage will be conducted according to a schedule fixing constant water delivery rates over fixed seasonal time periods. The purpose of this adaptive management measure is to develop an efficient method of monitoring and managing the Blackrock Waterfowl Management Area (BWMA), while still providing the desired benefits to wetlands and waterfowl. The adaptive management measure will be undertaken as an experiment to:

1. Determine the relationship between flooded acreage and water supplied for each BWMA unit, and to determine how that relationship changes seasonally.
2. Develop an efficient method of evaluating flooded acreage.
3. Develop a long-term protocol for managing the BWMA.

Seasonal water delivery flow rates will be set for each habitat area based on water use per acre flooded ratios developed from existing data. Using the available flooded acreage and water supplied data, an acre-foot per acre ratio of water used to acres flooded will be used to set flow rates. Flow will be set at the beginning of a season and held at that rate for the season. The length of each season is defined. At the midpoint and end of each seasonal time period the perimeter of the flooded acreage will be mapped to delineate the extent of flooding for the corresponding flow. This data will be used to establishing ratios for future seasonal flows.

The flooded acreage and flows will be based on the current runoff years forecast at the beginning of seasonal time period. Flooded acreage will be evaluated using GPS at the start/end of each season, and at each season's mid-point. Remote sensing will be investigated as a method for evaluating flooded acreage, using the GPS flooded perimeters for ground-truth and calibration. Accuracy of flow measurements will be assessed as the data accumulate.

## Delta Habitat Area Flow Assessment

### Background

Two separate management requirements exist for the Delta Habitat Area (DHA); a short-term requirement of providing a minimum flow of 0.5cfs to the Brine Pool for a full year following project implementation, and a long-term requirement of maintaining and enhancing the 2005 Delta acreage (1,160 ac). The Brine Pool requirements should be met in March 2009. Meeting the DHA habitat requirements are more problematic.

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The long-term requirement of maintaining and enhancing the DHA requires further investigation. The only project objective that has been met is that an average annual flow of 6 to 9cfs passed the pumpback station to the DHA. In fact, data from the period of July 12th, 2007 to September 30th, 2008 indicates that an average annual flow of 11.6cfs flowed to the DHA. These data include the seasonal habitat flows and some additional high flows resulting from precipitation (natural variation) and pump station calibration and testing (which allowed river flows to bypass the station and flow into the DHA). If habitat flows are not included, the average annual flow passing the pumpback station to the DHA was 8.8 cfs.

LADWP's dust control project also affects the DHA. The dust control project brackets, or confines the DHA on both the east and west sides and, likely has raised shallow groundwater conditions which is effecting DHA water spreading and potentially infiltration rates. The prolonged effects of the seasonal habitat flows coupled with the above mentioned effects all have had an accumulated impact on the DHA.

The management of the DHA centers on providing the area an annual base flow of 6 to 9cfs, and supplementing that flow with four seasonal pulse flows designed to enhance habitat for waterfowl and encourage wetland development. Four pulse flows are scheduled to be implemented once the Brine Pool requirement is met in March 2009.

The important questions that require investigation relate to how the DHA has responded to a changed surrounding landscape (the dust control project) and a changed water regime since baseline conditions were measured. Dust control structures, levees and roads on the east and west side of the DHA have converted the area from an open ecosystem to a confined or closed ecosystem. Prior to this confinement, the DHA channels could naturally shift from time to time as vegetation developed and forced lateral movements thereby creating dynamic conditions for the enhancement of wetland areas and habitat.

During the seasonal habitat flow water broke out of the west channel at the upper end of the delta and flowed west along a dust control levee/cell and gravel area. Water coursed through a remnant channel to the west of the DHA. Prior to the seasonal habitat flow this remnant channel was dry. Rather than allow water to flow to the historic end point of the remnant channel it was diverted by a dust control project levee/road and flowed into a dust control cell. This water may have created additional wetland habitat had it been allowed to follow its historic course. It appears that this water did not enhance the DHA wetland or contribute to its maintenance, and may have had a deleterious effect on dust control measures.

Initial examination of remote imagery from the years 2000, 2005 and 2008 indicate that vegetation conditions in the DHA have changed. The amount of acreage (extent) and composition (species assemblage) change is not well quantified at this time. Yet, given the new physical conditions which will influence how water is transported through, beneath and around the DHA, and because the DHA's vegetation has changed since the initial planning and collection of baseline data, the use of the four pulse flows to enhance and maintain the wetlands need to be reevaluated; especially since there is some evidence that the wetlands are tending toward less diversity and more mono-culture.



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### **Planned Work**

The Lower Owens River Project Monitoring, Adaptive Management, and Reporting Plan (Table 4.01) describes monitoring efforts to determine wetland habitat development and vegetation mapping to be conducted in year 3 of the project. Due to concerns described above it has been proposed to accelerate that monitoring by one year conducting it during the 2009-2010 fiscal year. Ecosystem Sciences will evaluate the DHA to determine what changes may have occurred to vegetation resources (acreage and composition) in winter/spring 2009. LADWP acquired a September 2008 Quickbird Satellite Image of the DHA that allows for in-depth study of the vegetation resources of the area. Current and past satellite imagery coupled with ground-truthing of vegetation, flow data, shallow groundwater, and comparisons to baseline conditions will provide insight to DHA changes and allow for adaptive management decisions related to modification of seasonal pulse flows as necessary.

The following tasks will be conducted to evaluate DHA conditions and develop recommendations for the DHA:

1. Evaluation of land cover change. This task will use remote sensing, vegetation transects, and channel cross-section surveys to evaluate change from pre-LORP conditions.
2. Evaluation of hydrologic changes in the DHA. This task will use groundwater data and flow data to evaluate hydrologic changes in the DHA from pre-LORP and pre-dust abatement hydrologic conditions.
3. Evaluation of linkage between hydrologic changes and vegetation changes. The results of tasks 1 and 2 will be assessed to determine the effects of hydrologic changes on vegetation cover.
4. Recommendations for DHA management. Based on the linkages identified in task 3, the consultant will develop recommendations will be made aimed at managing DHA flows to better achieve the DHA goals of maintaining and enhancing delta habitats.

### **Deliverables**

Ecosystem Sciences will produce a report that evaluates the following questions in relation to the DHA and the appropriate flows to maintain the required habitat conditions:

How has vegetation cover and composition changed since the LORP began?

How has the LORP changed the hydrology of the DHA?

How have dust control measures changed the hydrology of the DHA?

What is the relation between hydrologic change and land cover change in the DHA?

The report will also include adaptive management recommendations aimed at better achieving the LORP goals for the DHA.

### **Schedule**

Work will be performed in the winter and early spring of 2009.

## 2009 – 2010 Fiscal Year Lower Owens River Project Workplan

### 2009 – 2010 Fiscal Year Adaptive Management Measures Workplan Budget

|                                      | Organization/Class | Days | Daily rate | Equipment rate | Total              | LA Costs    | ESI Costs   |
|--------------------------------------|--------------------|------|------------|----------------|--------------------|-------------|-------------|
| <b>Adaptive Management measures</b>  |                    |      |            |                |                    |             |             |
| <b>Delta Habitat Area Assessment</b> | LADWP Survey       | 20   | 477        | 45             | \$10,440.00        | \$10,440.00 |             |
|                                      | ESI Principal      | 20   | 1032       |                | \$20,640.00        |             |             |
|                                      | ESI Senior         | 15   | 680        |                | \$10,200.00        |             |             |
|                                      | ESI Admin          | 2    | 512        |                | \$1,024.00         |             |             |
|                                      | ESI Expenses       |      |            |                | \$3,000.00         |             | \$34,864.00 |
| <b>Adaptive Management Total</b>     |                    |      |            |                | <b>\$45,304.00</b> |             |             |

| <b>Ecosystem Sciences Tasks</b>     |                 |                          |                                      |                   |                    |
|-------------------------------------|-----------------|--------------------------|--------------------------------------|-------------------|--------------------|
| <b>Ecosystem Sciences Inc.</b>      |                 | <b>Field Time (days)</b> | <b>Analysis and Reporting (days)</b> | <b>Daily rate</b> | <b>Expenses</b>    |
| <b>River</b>                        |                 |                          |                                      |                   |                    |
| <b>Rapid Assessment Survey</b>      |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          | 1                                    | 1032              | \$1,032.00         |
|                                     | Associate       | 10                       | 5                                    | 680               | 150 \$11,700.00    |
| <b>Base Flow Water Quality</b>      |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          |                                      | 1032              | 150                |
|                                     | Associate       | 0                        | 1                                    | 680               | 150 \$680.00       |
| <b>Seasonal Habitat Flow</b>        |                 |                          |                                      |                   |                    |
|                                     | Principle       | 6                        | 2                                    | 1032              | 150 \$9,156.00     |
|                                     | Associate       |                          |                                      | 680               | 150                |
| <b>Indicator Species Habitat</b>    |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          |                                      | 1032              | 150                |
|                                     | Associate       | 1                        | 2                                    | 680               | 150 \$2,190.00     |
| <b>Habitat Flow Flooding extent</b> |                 |                          |                                      |                   |                    |
|                                     | Principle       | 3                        | 3                                    | 1032              | 150 \$6,642.00     |
|                                     | Associate       | 3                        | 2                                    | 680               | 150 \$3,850.00     |
| <b>Habitat Flow Water Quality</b>   |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          | 1                                    | 1032              | 150 \$1,032.00     |
|                                     | Associate       |                          |                                      | 680               | 150                |
| <b>Landscape Veg Mapping</b>        |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          | 5                                    | 1032              | 150 \$5,160.00     |
|                                     | Associate       | 5                        |                                      | 680               | 150 \$4,150.00     |
|                                     | <b>Subtotal</b> |                          |                                      |                   | <b>\$45,592.00</b> |
| <b>Blackrock</b>                    |                 |                          |                                      |                   |                    |
| <b>Indicator Species Habitat</b>    |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          |                                      | 1032              | 150                |
|                                     | Associate       | 1                        | 2                                    | 680               | 150 \$2,190.00     |
| <b>Landscape Veg Mapping</b>        |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          | 2                                    | 1032              | 150 \$2,064.00     |
|                                     | Associate       | 2                        |                                      | 680               | 150 \$1,660.00     |
|                                     | <b>Subtotal</b> |                          |                                      |                   | <b>\$5,914.00</b>  |
| <b>Delta</b>                        |                 |                          |                                      |                   |                    |
| <b>Indicator Species Habitat</b>    |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          |                                      | 1032              | 150                |
|                                     | Associate       | 1                        | 1                                    | 680               | 150 \$1,510.00     |
| <b>Landscape Vegetation Mapping</b> |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          | 1                                    | 1032              | 150 \$1,032.00     |
|                                     | Associate       | 1                        |                                      | 680               | 150 \$830.00       |
|                                     | <b>Subtotal</b> |                          |                                      |                   | <b>\$3,372.00</b>  |
| <b>Off-River Lakes and Ponds</b>    |                 |                          |                                      |                   |                    |
| <b>Landscape Vegetation Mapping</b> |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          | 1                                    | 1032              | 150 \$1,032.00     |
|                                     | Associate       | 1                        |                                      | 680               | 150 \$830.00       |
|                                     | <b>Subtotal</b> |                          |                                      |                   | <b>\$1,962.00</b>  |
| <b>Annual Report Preparation</b>    |                 |                          |                                      |                   |                    |
| <b>Annual Report</b>                |                 |                          |                                      |                   |                    |
|                                     | Principle       |                          | 10                                   | 1032              | 150 \$10,320.00    |
|                                     | Associate       | 5                        |                                      | 680               | 150 \$4,150.00     |
|                                     | <b>Subtotal</b> |                          |                                      |                   | <b>\$14,470.00</b> |
|                                     |                 |                          |                                      | <b>Total</b>      | <b>\$71,210.00</b> |

Expenses are per diem and mileage\*

### Biologic and Water Quality Monitoring

| Biologic and Water Quality       | Organization/Class | Days | Invo Days | LA Days |                 |            |            |            |
|----------------------------------|--------------------|------|-----------|---------|-----------------|------------|------------|------------|
| <b>River</b>                     |                    |      |           |         |                 |            |            |            |
| Rapid Assessment Survey          | LA/WRS-B           | 9    |           |         |                 |            |            |            |
|                                  | LA/WRS-C           | 18   |           |         |                 |            |            |            |
|                                  | IC/RESASST         | 18   |           |         |                 |            |            |            |
|                                  | IC/LORP            | 9    | 27        | 27      |                 |            |            |            |
| Base Flow Water Quality          | IC/HYDROL          | 16   | 16        | 0       |                 |            |            |            |
| Seasonal Habitat Flow            | LA/WRS-B           | 10   | 10        | 18      |                 |            |            |            |
|                                  | LA/WRS-C           | 5    |           |         |                 |            |            |            |
|                                  | IC/HYDROL          | 10   |           |         |                 |            |            |            |
| Indicator Species Habitat        | LA/WRS-B           | 4    | 4         | 4       |                 |            |            |            |
|                                  | IC/VEGSCI          | 4    |           |         |                 |            |            |            |
| Habitat Flow Flooding extent     | LA/WRS-B           | 10   | 10        | 15      |                 |            |            |            |
|                                  | LA/WRS-C           | 5    |           |         |                 |            |            |            |
|                                  | IC/GIS             | 10   |           |         |                 |            |            |            |
| Habitat Flow Water Quality       | IC/HYDROL          | 15   | 15        | 0       |                 |            |            |            |
| Landscape Veg Mapping            | IC/VEGSCI          | 12   | 24        | 24      |                 |            |            |            |
|                                  | IC/GIS             | 12   |           |         |                 |            |            |            |
|                                  | LA/WRS-B           | 12   |           |         |                 |            |            |            |
|                                  | LA/GIS             | 12   |           |         |                 |            |            |            |
| Avian Census                     | LA/WRS-B           | 18   | 18        | 18      |                 |            |            |            |
|                                  | IC/GIS             | 18   |           |         |                 |            |            |            |
| Analysis and Reporting           | LA/WRS-B           | 9    | 9         | 9       |                 |            |            |            |
|                                  | IC/LORP            | 5    |           |         |                 |            |            |            |
|                                  | IC/GIS             | 4    |           |         |                 |            |            |            |
| <b>Total Days</b>                |                    |      | 132       | 112     |                 |            |            |            |
| <b>Blackrock</b>                 |                    |      |           |         |                 |            |            |            |
| Rapid Assessment Survey          | LA/WRS-B           | 1    | 3         | 3       |                 |            |            |            |
|                                  | LA/WRS-C           | 2    |           |         |                 |            |            |            |
|                                  | IC/RESASST         | 3    |           |         |                 |            |            |            |
| Indicator Species Habitat        | LA/WRS-B           | 4    | 4         | 4       |                 |            |            |            |
|                                  | IC/VEGSCI          | 4    |           |         |                 |            |            |            |
| Landscape Veg Mapping            | IC/VEGSCI          | 4    | 8         | 8       |                 |            |            |            |
|                                  | IC/GIS             | 4    |           |         |                 |            |            |            |
|                                  | LA/WRS-B           | 4    |           |         |                 |            |            |            |
|                                  | LA/GIS             | 4    |           |         |                 |            |            |            |
| Avian Census                     | LA/WRS-B           | 16   | 16        | 18      |                 |            |            |            |
|                                  | IC/GIS             | 16   |           |         |                 |            |            |            |
| Data Analysis and Reporting      | LA/WRS-B           | 4    | 4         | 4       |                 |            |            |            |
|                                  | LA/WRS-C           | 2    |           |         |                 |            |            |            |
|                                  | IC/LORP            | 2    |           |         |                 |            |            |            |
| <b>Total Days</b>                |                    |      | 35        | 35      |                 |            |            |            |
| <b>Delta</b>                     |                    |      |           |         |                 |            |            |            |
| Rapid Assessment Survey          | LA/WRS-B           | 1    | 1         | 1       |                 |            |            |            |
|                                  | IC/RESASST         | 1    |           |         |                 |            |            |            |
| Indicator Species Habitat        | LA/WRS-B           | 1    | 1         | 1       |                 |            |            |            |
|                                  | IC/VEGSCI          | 1    |           |         |                 |            |            |            |
| Landscape Vegetation Mapping     | IC/VEGSCI          | 3    | 6         | 6       |                 |            |            |            |
|                                  | IC/GIS             | 3    |           |         |                 |            |            |            |
|                                  | LA/WRS-B           | 3    |           |         |                 |            |            |            |
|                                  | LA/GIS             | 3    |           |         |                 |            |            |            |
| Avian Census                     | LA/WRS-B           | 7    | 7         | 7       |                 |            |            |            |
|                                  | IC/GIS             | 7    |           |         |                 |            |            |            |
| Analysis and Reporting           | LA/WRS-B           | 2    | 1         | 2       |                 |            |            |            |
|                                  | IC/LORP            | 1    |           |         |                 |            |            |            |
| <b>Total Days</b>                |                    |      | 15        | 17      |                 |            |            |            |
| <b>Off-River Lakes and Ponds</b> |                    |      |           |         |                 |            |            |            |
| Rapid Assessment Survey          | LA/WRS-B           | 2    | 2         | 2       |                 |            |            |            |
|                                  | IC/RESASST         | 2    |           |         |                 |            |            |            |
| Landscape Vegetation Mapping     | IC/VEGSCI          | 4    | 8         | 8       |                 |            |            |            |
|                                  | IC/GIS             | 4    |           |         |                 |            |            |            |
|                                  | LA/WRS-B           | 4    |           |         |                 |            |            |            |
|                                  | LA/GIS             | 4    |           |         |                 |            |            |            |
| Analysis and Reporting           | LA/WRS-B           | 1    | 1         | 1       |                 |            |            |            |
|                                  | IC/LORP            | 1    |           |         |                 |            |            |            |
| <b>Total Days</b>                |                    |      | 11        | 11      |                 |            |            |            |
| <b>Annual Report Preparation</b> |                    |      |           |         |                 |            |            |            |
| Report preparation               | LA/WRS-B           | 10   | 10        | 10      |                 |            |            |            |
|                                  | IC/LORP            | 10   |           |         |                 |            |            |            |
| <b>Total Days</b>                |                    |      | 10        | 10      |                 |            |            |            |
|                                  |                    |      | 183       | 174     | Excess IC hours | Daily Rate | Equip Rate | IC Expense |
|                                  |                    |      |           |         | 19              | \$332.64   | 24.15      | \$4,779.01 |

| Hydrologic Monitoring                   |                                       |   |   |   |
|---|---------------------------------------|---|---|---|
|   | 2009-2010<br>Predicted<br>Person days | Predicted Labor<br>Cost from July 1,<br>2009 through June<br>30, 2010 | Predicted<br>Equipment Cost<br>July 1, 2009<br>through June 30, | Total Predicted Cost<br>July 1, 2009 through<br>June 30, 2010 |
| <b>Hydrologic Monitoring</b>            |                                       |   |   |   |
| <b>RIVER</b>                            |                                       |   |   |   |
| <b>Base Flow Compliance Monitoring</b>  |                                       |   |   |   |
| Hydrographer "B"                        | 66                                    | \$20,536.63   | \$2,507.20  | \$23,124.03   |
| Hydrographer "A"                        | 2                                     | \$754.38  | \$90.51   | \$844.89  |
| Senior Hydrographer                     | 22                                    | \$8,177.84  | \$807.60  | \$9,075.44  |
| <b>Seasonal Habitat Flow Monitoring</b> |                                       |   |   |   |
| Hydrographer "B"                        | 20                                    | \$6,191.53  | \$760.00  | \$6,971.53  |
| Hydrographer "A"                        | 4                                     | \$1,333.49  | \$160.00  | \$1,493.49  |
| Senior Hydrographer                     | 9                                     | \$3,087.67  | \$340.00  | \$3,437.67  |
| <b>Data analysis</b>                    |                                       |   |   |   |
| Hydrographer "B"                        | 10                                    | \$3,236.65  | \$0.00  | \$3,236.65  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 42                                    | \$15,399.82   | \$0.00  | \$15,399.82   |
| <b>Reporting</b>                        |                                       |   |   |   |
| Hydrographer "B"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 19                                    | \$6,814.86  | \$0.00  | \$6,814.86  |
| CE Associate I                          | 51                                    | \$17,911.98   | \$0.00  | \$17,911.98   |
| CE Associate J                          | 15                                    | \$6,599.34  | \$0.00  | \$6,599.34  |
| <b>BLACK ROCK WATERFOWL AREA</b>        |                                       |   |   |   |
| <b>Flooded Extent Monitoring</b>        |                                       |   |   |   |
| Hydrographer "B"                        | 122                                   | \$38,646.00   | \$4,660.00  | \$43,516.00   |
| Hydrographer "A"                        | 19                                    | \$8,334.10  | \$760.00  | \$7,094.10  |
| Senior Hydrographer                     | 21                                    | \$7,653.06  | \$840.00  | \$8,493.06  |
| Maintenance and Construction Helper     | 146                                   | \$39,867.00   | \$0.00  | \$39,867.00   |
| <b>Data analysis</b>                    |                                       |   |   |   |
| Hydrographer "B"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 31                                    | \$11,245.31   | \$0.00  | \$11,245.31   |
| CE Associate J                          | 12                                    | \$5,434.75  | \$0.00  | \$5,434.75  |
| Senior Draftsman                        | 19                                    | \$6,929.76  | \$0.00  | \$6,929.76  |
| GIS Analyst                             | 20                                    | \$7,708.80  | \$0.00  | \$7,708.80  |
| <b>Reporting</b>                        |                                       |   |   |   |
| Hydrographer "B"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 17                                    | \$6,247.39  | \$0.00  | \$6,247.39  |
| CE Associate I                          | 20                                    | \$7,024.30  | \$0.00  | \$7,024.30  |
| CE Associate J                          | 7                                     | \$3,170.27  | \$0.00  | \$3,170.27  |
| GIS Analyst                             | 5                                     | \$1,927.20  | \$0.00  | \$1,927.20  |
| <b>OFF RIVER LAKES AND PONDS</b>        |                                       |   |   |   |
| <b>Lake Level Monitoring</b>            |                                       |   |   |   |
| Hydrographer "B"                        | 9                                     | \$2,721.36  | \$342.86  | \$3,064.41  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 4                                     | \$1,467.72  | \$180.00  | \$1,617.72  |
| <b>Data analysis</b>                    |                                       |   |   |   |
| Hydrographer "B"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 7                                     | \$2,496.96  | \$0.00  | \$2,496.96  |
| <b>Reporting</b>                        |                                       |   |   |   |
| Hydrographer "B"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 5                                     | \$1,674.22  | \$0.00  | \$1,674.22  |
| CE Associate I                          | 5                                     | \$1,756.08  | \$0.00  | \$1,756.08  |
| CE Associate J                          | 3                                     | \$1,552.79  | \$0.00  | \$1,552.79  |
| <b>DELTA</b>                            |                                       |   |   |   |
| <b>Flow Monitoring</b>                  |                                       |   |   |   |
| Hydrographer "B"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| <b>Data analysis</b>                    |                                       |   |   |   |
| Hydrographer "B"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| <b>Reporting</b>                        |                                       |   |   |   |
| Hydrographer "B"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Hydrographer "A"                        | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| Senior Hydrographer                     | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| CE Associate I                          | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| CE Associate J                          | 0                                     | \$0.00  | \$0.00  | \$0.00  |
| <b>TOTAL =</b>                          |                                       |   |   | <b>\$255,893.00</b>   |

### Adaptive Management

| Adaptive Management measures  | Organization/Class | Days | Daily rate | Equipment rate | Total              | LA Costs    | ESI Costs   |
|-------------------------------|--------------------|------|------------|----------------|--------------------|-------------|-------------|
| Delta Habitat Area Assessment | LADWP Survey       | 20   | 477        | 45             | \$10,440.00        | \$10,440.00 |             |
|                               | ESI Principle      | 20   | 1032       |                | \$20,640.00        |             |             |
|                               | ESI Senior         | 15   | 680        |                | \$10,200.00        |             |             |
|                               | ESI Admin          | 2    | 512        |                | \$1,024.00         |             |             |
|                               | ESI Expenses       |      |            |                | \$3,000.00         |             | \$34,864.00 |
| <b>Task Subtotal</b>          |                    |      |            |                | <b>\$45,304.00</b> |             |             |

| Operations and Maintenance                     |                           |       |            |                  |   |       |       |                 |
|--|---------------------------|-------|------------|------------------|---|-------|-------|-----------------|
| River  | Labor type                | Hours | Labor Rate | Total Labor      | Equipment Type  | Hours | Rate  | Total Equipment |
| Measuring Stations Maintenance (4 Stations)    | Power Shovel Operator     |       | 153.12     | 11417.8          | Mower   | 263.2 | 75.76 | 4196.24         |
|  | Truck Driver/MCH Operator |       |            |                  | 3 axle dump trucks                                    |       |       |                 |
|  | Building Repair Man       |       |            |                  | Gradaff<br>Backhoe and trailer<br>3/4 ton 4x4 pick-up |       |       |                 |
| Spillgates and Ditches                         |                           |       |            |                  |   |       |       |                 |
| Intake Spillgate Maintenance (3 days per year) | Building Repair Man       | 27    | 37.53      | 1013.31          | 3/4 ton 4x4 pick-up                                   | 27    | 5.77  | 155.79          |
|  | 2 - Truck Driver/MCH      | 54    | 33.14      | 1789.56          | 3/4 ton 4x4 pick-up                                   | 27    | 5.77  | 155.79          |
| Intake   |                           |       |            |                  |   |       |       |                 |
| Mowing (3 days per year)                       | Operator                  | 27    | 40.74      | 1099.58          | Mower   | 225   | 10.71 | 2409.75         |
|  | 1 - Truck Driver/MCH      | 36    | 33.14      | 1193.04          | 1 - 3 axle dump trucks                                | 72    | 15.38 | 1907.36         |
| Cleaning (3 days per year)                     | Power Shovel Operator     | 27    | 43.29      | 1168.83          | Gradaff   | 27    | 25.64 | 692.28          |
|  | 2 - Truck Driver/MCH      | 54    | 33.14      | 1789.56          | 2 - 3 axle dump trucks                                | 72    | 15.38 | 1107.36         |
| Blackrock Ditch                                |                           |       |            |                  |   |       |       |                 |
| Mowing (25 days per year)                      | Operator                  | 225   | 40.74      | 9168.5           | Mower   | 225   | 10.71 | 2409.75         |
|  | 2 - Truck Driver/MCH      | 450   | 33.14      | 14913.2          | 2 - 3 axle dump trucks                                | 450   | 15.38 | 6921            |
| Cleaning (10 days per year)                    | Power Shovel Operator     | 90    | 43.29      | 3896.1           | Gradaff   | 90    | 25.64 | 2307.6          |
|  | 2 - Truck Driver/MCH      | 270   | 33.14      | 8947.8           | 2 - 3 axle dump trucks                                | 270   | 15.38 | 4152.6          |
| Goose Lake to River Ditch                      |                           |       |            |                  |   |       |       |                 |
| Cleaning (5 days per year)                     | Operator                  | 45    | 40.74      | 1833.3           | Backhoe and trailer                                   | 45    | 14.66 | 659.7           |
|  | 1 - Truck Driver/MCH      | 45    | 33.14      | 1491.3           | 1 - 3 axle dump trucks                                | 45    | 15.38 | 692.1           |
| Thibout Spillgate and Ditch                    |                           |       |            |                  |   |       |       |                 |
| Cleaning (4 days per year)                     | Power Shovel Operator     | 36    | 43.29      | 1558.44          | Gradaff   | 36    | 25.64 | 923.04          |
|  | 2 - Truck Driver/MCH      | 72    | 33.14      | 2386.08          | 2 - 3 axle dump trucks                                | 72    | 15.38 | 1107.36         |
| Independence Spillgate and Ditch               |                           |       |            |                  |   |       |       |                 |
| Cleaning (4 days per year)                     | Operator                  | 135   | 40.74      | 5499.9           | Backhoe and trailer                                   | 135   | 14.66 | 1979.1          |
|  | 2 - Truck Driver/MCH      | 270   | 33.14      | 8947.8           | 2 - 3 axle dump trucks                                | 270   | 15.38 | 4152.6          |
| Locust Spillgate and Ditch                     |                           |       |            |                  |   |       |       |                 |
| Cleaning (5 days per year)                     | Power Shovel Operator     | 45    | 43.29      | 1948.05          | Gradaff   | 45    | 25.64 | 1153.8          |
|  | Operator                  | 45    | 40.74      | 1833.3           | Backhoe and trailer                                   | 45    | 14.66 | 659.7           |
|  | 1 - Truck Driver/MCH      | 45    | 33.14      | 1491.3           | 1 - 3 axle dump trucks                                | 45    | 15.38 | 692.1           |
| Dean, Russell, Georges and Stevens             |                           |       |            |                  |   |       |       |                 |
| Cleaning (20 days per year)                    | Operator                  | 180   | 40.74      | 7333.2           | Backhoe and trailer                                   | 180   | 14.66 | 2638.8          |
|  | 1 - Truck Driver/MCH      | 45    | 33.14      | 1491.3           | 1 - 3 axle dump trucks                                | 45    | 15.38 | 692.1           |
| Alabama Spillgate                              |                           |       |            |                  |   |       |       |                 |
| Cleaning (6 days per year)                     | Power Shovel Operator     | 54    | 43.29      | 2337.66          | Gradaff   | 54    | 25.64 | 1384.56         |
|  | 3 - Truck Driver/MCH      | 162   | 33.14      | 5368.68          | 3 - 3 axle dump trucks                                | 162   | 15.38 | 2491.56         |
| Delta Spillgate Maintenance (3 days per year)  |                           |       |            |                  |   |       |       |                 |
| Building Repair Man                            | Building Repair Man       | 27    | 37.53      | 1013.31          | 3/4 ton 4x4 pick-up                                   | 27    | 5.77  | 155.79          |
|  | 2 - Truck Driver/MCH      | 54    | 33.14      | 1789.56          | 3/4 ton 4x4 pick-up                                   | 27    | 5.77  | 155.79          |
| LORP Operations                                |                           |       |            |                  |   |       |       |                 |
| Patrol and Flow Changes (250 days per year)    | Aqueduct and Reservoir K  | 2080  | 33.14      | 68931.2          | 3/4 ton 4x4 pick-up                                   | 2080  | 5.77  | 12001.6         |
| Maintenance                                    |                           |       |            |                  |   |       |       |                 |
| Fence (10 days per year)                       | Building Repair Man       | 90    | 37.53      | 3377.7           | 3/4 ton 4x4 pick-up                                   | 90    | 5.77  | 519.3           |
|  | 2 - Truck Driver/MCH      | 180   | 33.14      | 5965.2           | 3/4 ton 4x4 pick-up                                   | 90    | 5.77  | 519.3           |
| <b>Total</b>                                   |                           |       |            | <b>\$239,187</b> | <b>\$160,983</b>                                      |       |       | <b>\$58,194</b> |

| <b>Range Monitoring</b>                    |                    |
|--|--------------------|
| <b>Task</b>                                | <b>People Days</b> |
| Utilization                                | 40                 |
| Irrigated Pasture Condition                | 5                  |
| Range Trend                                | 160                |
| Annual Field Inspections (see 2-59 of EIR) | 20                 |
| Field Evaluations (see 2-59 of EIR)        | 5                  |
| Analysis and Reporting                     | 15                 |
| <b>Total</b>                               | <b>245</b>         |





# County of Inyo



## Public Works

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Michael Errante

**SUBJECT:** Request for change in authorized strength in the Public Works Department and reclass of current employee

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**RECOMMENDED ACTION:**

Request Board: A) approve the modified job description for the Engineering Technician I/II; and B) change the Authorized Strength in the Public Works Department by deleting one (1) Planning Technician at Range 63 (\$4,184 - \$5,091) and adding one (1) Engineering Technician I at Range 61 (\$3,997 - \$4,885) or Engineering Technician II at Range 66 (\$4,489 - \$5,464); and C) reclass a current Lead Equipment Operator to the Engineering Technician I, step E, effective July 7, 2022.

**SUMMARY/JUSTIFICATION:**

The Department has not utilized the Engineering Technician classification for a couple of years. With the struggles the Department has experienced in recruiting for the higher-level positions in the professional and paraprofessional engineering track, we would like to bring this position back into the authorized strength. By bringing in an Engineering Tech I/II, it will allow someone with less experience and/or education to qualify for the position and grow in skill and knowledge and potentially qualify and promote into these hard-to-fill higher-level positions.

With the changes that have occurred over time, the duties of the Engineering Technician have changed. The Department no longer has a survey crew, which was one of the main duties specified in the outdated job description. The modified job description more accurately outlines the duties and expectations of the position. The qualifications for the job did not change.

The Department currently has a valued long-term employee that has been assigned duties that are not consistent with their job description/title. As a result of the meet and confer process with the ICEA Union, it has been identified that a reclass of this employee is appropriate. All parties have agreed upon the reclass, resulting in the request to reclass a Lead Equipment Operator to the Engineering Technician I, step E position. The employee meets the qualifications of the Engineering Technician I and is eager to continue some of the current duties they are performing, while taking on additional duties of the position.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to approve the recommended action. However, this would result in the Department returning to the meet and confer process to address the employee currently working outside of his job description, as well as limit the Department's ability to grow the professional and paraprofessional Engineering track.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

This position is budgeted in the Public Works budget 011500 in the salaries and benefits object codes. This position is included in the FY 22/23 budget.

**ATTACHMENTS:**

1. Engineering Tech I-II

**APPROVALS:**

|                 |                               |
|-----------------|-------------------------------|
| Darcy Ellis     | Created/Initiated - 6/29/2022 |
| Darcy Ellis     | Approved - 6/29/2022          |
| Darcy Ellis     | Approved - 6/29/2022          |
| Keri Oney       | Approved - 6/29/2022          |
| Breanne Nelums  | Approved - 6/30/2022          |
| Michael Errante | Approved - 6/30/2022          |
| John Vallejo    | Approved - 6/30/2022          |
| Amy Shepherd    | Final Approval - 6/30/2022    |



AN EQUAL OPPORTUNITY EMPLOYER  
(WOMEN, MINORITIES, AND DISABLED ARE ENCOURAGED TO APPLY)

## **ENGINEERING TECHNICIAN I/II**

**DEPARTMENT:** Public Works

**DEFINITION:** To perform a variety of paraprofessional engineering work on engineering projects and County facilities; perform drafting, simple design, and computations on engineering projects; and perform related duties as assigned.

**ESSENTIAL JOB DUTIES:** Under supervision, perform computer-aided drafting and design in preparing maps, cross-sections, profiles, and improvement plans; prepare engineering reports; prepare plans, specifications, and estimates for construction projects; perform traffic counts and prepare and submit findings; perform all aspects of pavement management; perform duties related to various lighting districts; obtain bids for purchasing and services; assist and support department staff with job related duties; and perform inspection and quality control monitoring of construction projects.

### **OTHER EXAMPLES OF DUTIES:**

- Perform design calculations for determining alignment, quantities, and other engineering parameters
- May be assigned to construction projects to perform various duties such as inspection of work for compliance to plans and specifications, quality control of construction materials and methods
- Preparing records and reports for contract administration and other functions of the position
- Acquire and maintain software and hardware in relation to the collection of data for conducting traffic studies and other duties of the position
- Enter data into automated systems
- Obtain permits needed to perform Department operations
- Maintain positive working relationships with internal and external partners/agencies
- Research projects and equipment used by the Department, obtain specifications, quantities and cost information
- Oversee and make repairs as needed for various lighting districts
- Identify and maintain timelines for projects
- Other duties as assigned.

**PHYSICAL JOB FACTORS:** Frequent standing, walking, and driving; occasional lifting, shoveling, carrying, bending, and fine finger and hand dexterity. Ability to lift and carry 50 pounds.

**ENVIRONMENTAL JOB FACTORS:** Work in the road right of way under traffic conditions; work around moving machinery; exposure to fumes and dust; exposure to excessive noises created by moving heavy equipment; exposure to slippery or uneven walking surfaces. The worker is subject to ambient weather conditions that include a high of 120 degrees and a low of -10 degrees Fahrenheit.

### **EMPLOYMENT STANDARDS**

**Education/Experience:** Tech I - High school graduate or equivalent with two years of paraprofessional engineering office and field experience. Successful completion of 30 college semester units in drafting or

engineering may be substituted for one year of the required experience. **Tech II** – Additional year of experience required.

**Knowledge of:**

- Principles and uses of algebra, geometry, and trigonometry
- Drafting and engineering principles used in the design and preparation of engineering plans
- Engineering and surveying principles used in property location and topographic survey work
- Properties and uses of materials employed in road and drainage construction, maintenance, and related engineering projects

**Ability to:**

- Use drafting and surveying equipment
- Prepare maps, plans, cross-sections, and profiles
- Use computer and specialized programs, software and hardware
- Make complete and accurate field notes and to prepare clear and concise reports
- Learn principles and practices of civil engineering as applied to road and drainage construction, including quality control testing and closely related construction activities
- Use proper grammar and spelling in both written and verbal communication
- Work cooperatively with those contacted in the course of work.

**Special requirements:** You may be required to drive a motor vehicle in the course of employment and must possess a valid operator's license issued by the State Department of Motor Vehicles. Must successfully complete a pre-employment background investigation and physical examination. Your position may be required to serve as a Disaster Service Worker during a County emergency.



# County of Inyo

## Clerk of the Board

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** July 5, 2022

**FROM:** Assistant Clerk of the Board

**SUBJECT:** Approval of Board of Supervisors Minutes

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**RECOMMENDED ACTION:**

Request Board approve the minutes of the regular Board of Supervisors meeting of June 28, 2022.

**SUMMARY/JUSTIFICATION:**

The Board is required to keep minutes of its proceedings. Once the Board has approved the minutes as requested, the minutes will be made available to the public via the County's webpage, [www.inyocounty.us](http://www.inyocounty.us).

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

N/A

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

N/A

**ATTACHMENTS:**

**APPROVALS:**

Darcy Ellis  
Darcy Ellis

Created/Initiated - 6/29/2022  
Final Approval - 6/29/2022



# County of Inyo



## County Counsel

### **TIMED ITEMS - NO ACTION REQUIRED**

**MEETING:** July 5, 2022

**FROM:** Grace Chuchla

**SUBJECT:** Purchasing policy update presentation

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**RECOMMENDED ACTION:**

Request Board receive presentation regarding proposed updates to the Inyo County Purchasing Policy and provide direction to staff regarding the proposed updates.

**SUMMARY/JUSTIFICATION:**

A working group of County employees, including Administration, the Auditor, and County Counsel, have been working over the past few months to update the Inyo County Purchasing Policy. The Purchasing Policy was last updated in 2017. The working group believes that the Purchasing Policy is in need of updates, both to bring it in line with current law and to make certain discretionary, policy changes that will smooth out the purchasing process and provide additional autonomy to department heads in purchasing the goods and services that they need for their department to function.

Attached is a draft of the updated Purchasing Policy that the working group has created. This draft policy has also been circulated to department heads and fiscal staff from each department for comments and input.

The working group will present this draft policy to your Board and explain the major changes from the County's current policy. The working group will then receive any feedback your Board may have, edit the draft policy accordingly, and prepare an ordinance for your Board's consideration that will amend both the Purchasing Policy and Title VI of the Inyo County Code.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

**ATTACHMENTS:**

1. Purchasing Policy Revision (06.07.22)

**APPROVALS:**

Grace Chuchla  
Grace Chuchla  
Darcy Ellis  
John Vallejo  
Amy Shepherd  
Leslie Chapman

Created/Initiated - 6/9/2022  
Approved - 6/9/2022  
Approved - 6/9/2022  
Approved - 6/9/2022  
Approved - 6/9/2022  
Final Approval - 6/9/2022

# Inyo County Purchasing Policy

**DRAFT REVISION**

**June 9, 2022**



## **I. Introduction**

The purpose of this Purchasing Policy Manual, which has been approved by the Board of Supervisors pursuant to Ordinance No. 22-XXX, is to set forth how purchasing activities are to be conducted in Inyo County. Specifically, this manual establishes the policies and procedures that govern the daily implementation of the County's Purchasing and Contracting Ordinance, found in Title 6 of the Inyo County Code. Nothing in this policy is intended to supplant or contradict the rules set forth in Title 6. Rather, this policy is intended to assist County staff in properly implementing Title 6. As long as they do not contradict the rules found within Title 6, any rules or procedures contained within this Policy are binding rules that carry the same force and effect as any rules found in Title 6.

There are six different types of purchases that the County makes: goods, services, real property / leases, public works projects, road projects, and bridge projects. The same rules and procedures apply to the procurement of personal property and services, so that means that there are five different sets of rules that County employees must be aware of when making purchases. Each of these five sets of rules is handled in detail in the sections below.

It is Inyo County's goal is to provide autonomy to department heads and elected officials to spend their budgeted funds in whatever manner they think will best effectuate their policy goals. The Board of Supervisors trusts that department heads and elected officials will spend County funds responsibly and ethically and will exercise due diligence to price shop and obtain the best value for the County.

All employees are encouraged to read the entirety of this Policy. County Counsel, County Administration, the Budget Team, the Auditor, and your supervisor are also available to answer any questions that you may have regarding purchasing rules and procedures.

## **II. General Procedures Applicable to All Procurements**

### **A. Authority of Department Heads and the County Purchasing Agent**

The Board of Supervisors appointed the County Administrative Officer to serve as the Purchasing Agent for Inyo County. Additionally, via both this Policy and Title 6 of the Inyo County Code, the Board of Supervisors and the Purchasing Agent delegated various purchasing powers to department heads.<sup>1</sup> Department heads must carefully review this Policy, the Inyo County Code, and applicable state laws to determine who has the ability to authorize a purchase. Regardless of the delegated purchasing powers, for all purchases, the Purchasing Agent retains the power to overrule any purchasing decision made by a department head.

### **B. Failure to Comply with the Purchasing Policy**

Compliance with this Policy and Title 6 is a serious matter. The County understands that purchasing rules are complex, and employees often make good-faith mistakes when procuring goods, services, or property. This section is not intended to apply to such good-faith mistakes. Rather, this section is intended to apply to County employees who knowingly circumvent purchasing procedures. Such actions will not be tolerated in Inyo County.

Examples of noncompliance with this Policy or Title 6 may include, but are not limited to:

1. Knowingly exceeding delegated purchasing authority – e.g. entering into a contract for \$55,000 without taking that contract to the Board for approval after you have been informed by County Counsel that such contracts require Board approval
2. Dividing a single purchase order by utilizing multiple PO's to avoid approval limits – e.g. dividing an order for office supplies into two orders of \$26,000 to avoid the \$50,000 approval limit
3. Displaying favoritism or nepotism in compiling quotations – e.g. directing a contract toward a family member's business by purposefully seeking informal bids that are higher than the price provided by the family member's business<sup>2</sup>
4. Purchasing for personal use – e.g. an employee purchases extra cleaning supplies so that they may take some home for personal use

Any failure to abide by this Policy or Title 6 may result in consequences for the individual employee and the department as a whole. Per Government Code section 29121, any amount spent by a department head in excess of their authorized budget appropriation shall be a personal liability of the department head.

In addition to personnel actions or civil/criminal liability, the Purchasing Agent and/or Auditor may also enforce this Policy or Title 6 by conducting random audits of a department's purchasing activity and imposing consequences should the audits repeatedly reveal noncompliance with this Policy.

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<sup>1</sup> Any reference to department heads also includes elected officials.

<sup>2</sup> Employees are also encouraged to familiarize themselves with Inyo County's Fraud, Waste, and Abuse Policy. Many of the issues outlined in this section are also covered in the Fraud, Waste, and Abuse Policy.

### C. Commitment to a Competitive Process

Inyo County is committed to always seeking the best value possible for any goods, services, or property that it might procure. To that end, this Policy and Title 6 require procedures such as sealed bids or informal quotes for the vast majority of purchases. However, the County also recognizes that the value of the time spent requesting bids or comparing prices for certain small purchases could exceed the savings that comes with the competitive process. Accordingly, as outlined in more detail in the subsequent sections, some purchases do not require a competitive process. Regardless, price shopping is always encouraged.

### D. Exceptions to the Competitive Process

Situations may arise where an employee finds it impossible or unreasonable to comply with the competitive process. These situations are described in more detail below. County employees should keep in mind that these situations are the exception, not the norm. **Additionally, any purchase that will be conducted under one of the exceptions enumerated below must be approved by County Counsel, the Auditor, and the Purchasing Agent, regardless of the dollar amount of the procurement.**

#### 1. Sole Source Procurements.

A sole source procurement may be justified in the following situations:

- The capability of the proposed contractor is critical to the specific effort and makes the contractor clearly unique compared to other contractors in the general field
- The proposed contractor has prior experience of a highly specialized nature that is vital to the proposed effort
- The proposed contractor has facilities, staffing, or equipment that are specialized and vital to the services being requested
- The proposed contractor has a substantial investment that would have to be duplicated at the County's expense by another contractor entering the field
- A critical proposed schedule for the service and/or product that only one proposed contractor can meet
- A lack of competition because of the existence of patent rights, copyrights, trade secrets, and/or location

Sole source procurements are the exception, not the norm. They are to be used sparingly and shall not be used in lieu of any competitive process simply because the department failed to allot sufficient time to engage in the competitive process or because the department finds the competitive process to be onerous.

#### 2. Emergency Situations

Emergency situations are *unforeseeable* events that necessitate the immediate spending of money to remedy them. Unforeseeable events do not include problems brought about by poor planning.

In other words, a department's failure to prepare a RFP/RFQ in time to solicit bids does not constitute an emergency. Emergencies can arise in such vast and varied circumstances that providing comprehensive examples is almost impossible. However, generally, when public health or welfare necessitates that a department immediately spend money, they may do so without any adherence to the competitive processes or approval limits set out in this Policy. Unless the purchase is made during a formally declared state of emergency (see Section VII), the department must seek retroactive approval of the purchase from the Board of Supervisors as soon as possible.

### **3. Repair of cars or heavy machinery**

When a car or piece of heavy machinery breaks down, it does not make sense to tow that machinery from shop to shop to obtain quote from various mechanics to fix the machinery. Those towing costs generally negate the cost savings realized from obtaining bids. Therefore, departments such as Motor Pool or the Road Department may dispense with the competitive process when it would be expensive and difficult to transport the broken car or machinery to multiple mechanics. However, any department that utilizes this exception is encouraged to utilize vendors that are known to provide a good value to the County.

### **4. Emergency repairs**

Like all buildings and facilities, County facilities sometimes experience unexpected problems with crucial systems, like HVAC, electrical, appliances, or plumbing. These problems need to be remedied immediately, as they often interfere with the ability of County employees to do their jobs. Therefore, there is no time to obtain bids in these situations. This exception also applies to County-operated utility systems, such as the County water system in Lone Pine, Independence, and Laws.

Repairs performed pursuant to this section will often also qualify as emergency public works projects. Review Section VII(B) of this Policy for more information on such purchases.

### **5. Ongoing maintenance provided by a manufacturer**

Certain products or software require ongoing maintenance, updates, or trainings that can only be provided by the product manufacturer. Departments may treat contracts for such services as sole source procurements. When making the initial purchase of a product that will require ongoing maintenance from only one vendor, the Department is encouraged to try to negotiate a price for that ongoing service as part of the initial procurement.

### **6. "Piggyback" purchasing**

In situations where another government agency has already engaged in a competitive procurement process and the vendor is willing to offer the same contract terms to Inyo County as the other government agency, Inyo County is permitted to procure goods or services from that vendor without engaging in the competitive process. This exception exists because, if another government agency has already taken the time to obtain competitive bids, then there is little

value to be gained by having Inyo County repeat the same process. Before engaging in “piggyback” purchasing, the department must review the purchasing and procurement policies of the original government agency to ensure that that agency’s standards are at least as rigorous as Inyo County’s and to ensure that the price of the good or service offered is at or below the market rate.

Piggyback purchasing is also permitted with non-governmental purchasing collectives, such as Sourcewell.

### **E. Out of State Vendors**

Purchasing from vendors or contractors located outside of California requires some extra paperwork, primarily related to state tax withholding issues. Departments are encouraged to consult with the Auditor to ensure that they comply with all requirements. However, at a minimum, out of state vendors generally require the following:

- A current W-9 on file with the Auditor
- A CA State Board of Equalization Tax Permit number, if the vendor charges sales tax
- Completed California withholding tax forms

### **F. Local and Small Business Purchasing Preference**

Inyo County wants to spend its money in a manner that encourages the growth of local and small businesses because such businesses contribute to the community and local economy. These benefits often justify choosing a small and/or local company over a large and/or non-local company, even if the small / local company is slightly more expensive than other bidders. Accordingly, Inyo County applies a purchasing preference of 8% for local businesses or 5% for small businesses. Inyo County also applies a 5% purchasing preference for primary contractors if the primary contractor will direct 10% or more of the value of the work to be performed under the contract to subcontractors that qualify as a small or local business.

In practice, this means that, all other things being equal, if a department receives a bid from a local business that is up to 8% higher than non-local respondents, the department must consider the local business’s quote to be of an equal amount to the non-local business’s quote. The same rule applies for small businesses, but in this situation, the preference is only 5%.<sup>3</sup>

Note, however, that there is no requirement to accept a quote or bid from a local or small business if the non-local or non-small business will provide a higher value product or service to the County. In other words, while the County will discount the prices quoted by local or small businesses in an effort to foster beneficial economic activity, nothing obligates the County to purchase a product or service that it knows to be subpar simply because that product or service comes from a local or small business.

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<sup>3</sup> Bidders may not “stack” purchasing preferences. In other words, a bidder who qualifies as both a small and a local business would not get a 13% preference.

Finally, for purchases that are funded with non-County funds (e.g. state or federal grants), departments are cautioned to carefully review the rules associated with the grant or outside funds. Some outside funds prohibit the application of small or local business preferences or they have their own rules regarding preferences (e.g. some federal funds require the application of a minority-owned business preference).

### **G. Insurance Specifications for Contracts**

With some limited exceptions, the County generally requires all vendors or consultants who provide products or services to the County to maintain insurance. This insurance is necessary to protect the County in the event that the vendor or consultant fails to perform under the contract or in the event that the vendor or consultant harms a third party in the course of providing products or services for the County.

Before entering into a contract with a vendor or a consultant, you must consult with Risk Management to determine the level of insurance that Risk will require the vendor or consultant to carry. The insurance that the County requires varies based on the risk inherent in the product or service that is being provided, the value of the contract, and many other factors. You should consult Risk Management regarding insurance requirements early in the RFP/RFQ process so that you can inform potential respondents of the level of insurance that the County will require them to carry.

### **H. Document Retention and Management**

All documents related to purchasing must be retained for a period of three years. It is the responsibility of the department making the purchase to ensure proper document retention. Electronic retention is fine; there is no need to maintain paper copies of records so long as you have scanned a copy of the document to PDF.

Note that certain purchases may require longer retention periods, but three years is the default rule in the absence of a more restrictive rule.

In addition to legal retention requirements, departments are also advised to keep an organized file related to their purchasing activity so that the Purchasing Agent or Auditor can exercise their power to audit a department's purchasing activity and so that the department can provide back-up documentation as needed to pay their bills. For example, a purchase of goods between \$5,001 and \$10,000 requires three informal bids and department head approval. If a department is making a purchase of \$7,000 of goods, the department must retain copies of the three (or more) informal bids that it sought for at least three years. These retention rules apply even when the department does not have to seek outside approval to make the purchase – i.e., when the department head is the sole approval authority and the purchase is made on a County credit card, not through the Auditor.

## I. Paying for Purchases

After choosing a vendor and complying with all of the various procedures outlined in this Policy, the department must memorialize and effectuate the purchase. In the case of simple or relatively small purchases, this may require nothing more than swiping a County credit card.

For vendors that do not take credit cards or for purchases that are more complex, a department has two options. First, the department may obtain a purchase order from the Auditor. A purchase order is essentially a “mini contract” and memorializes what the vendor is selling, how much the County will pay, and the terms of the sale. Departments are encouraged to use purchase orders for situations that are too complex or expensive for credit cards, but not complex enough for a full-blown contract. The Auditor will then prepare a check to the vendor pursuant to the purchase order. Second, the department may use a standard County contract prepared by County Counsel and available on the intranet. Contracts are necessary when the County is purchasing services or for situations where the County will be making defined payments over a period of time. Departments are encouraged to consult with County Counsel if there is any confusion as to the use of a purchase order versus a contract.

For all purchases, department should be prepared to provide documentation to demonstrate compliance with this Policy. This documentation must be provided to departments such as the Auditor, the Purchasing Agent, County Counsel, and any other department that has a role in approving purchases or ensuring compliance with this Policy.

## J. Compatibility Issues When Purchasing

When departments work together to tap into each other’s expertise, the County enjoys greater efficiency and cost-savings. This is particularly true in the purchasing realm when departments are buying specialized items that could have compatibility issues with existing items. A good example of this is technology-related purchases; for example, certain tablets may not be compatible with the County’s current computers, so any department wanting to buy tablets would be well served to verify compatibility with Information Services before making any purchases. Therefore, for all purchases in the following categories, departments must obtain the approval of the departments listed below:

| <b>Purchase Type</b>                                   | <b>Approval Required From</b> |
|--|-------------------------------|
| Technology (e.g. phones, tablets, computers, printers) | Information Services          |
| Transportation (e.g. cars, car accessories)            | Motor Pool                    |

Exceptions for IS approval for technology-related purchases include: Mouse, keyboard, disposable items (e.g., toner cartridges, inkjet cartridges for printers, etc.), printer cables, noise cancelling headphones, battery back-ups, privacy filters, and laptop cases.

**III. Procurement of goods and services (Inyo County Code Chapter 6.10)**

The procurement of goods and services follow the same rules (with one exception, as detailed in section III(E) below) and will be both be described in this section. The chart below summarizes the key rules with respect to the procurement of goods and services, and each section below describes each level of purchasing in more detail:

| <b>Amount</b>                 | <b>Required Action</b>   | <b>Approval Authority</b>            |
|-------------------------------|--|--------------------------------------|
| Less than or equal to \$5,000 | Compliance with the competitive process is not required, but price shopping is encouraged.                           | Department Head or designee          |
| \$5,001 to \$10,000           | Three informal bids (e.g. printouts from websites showing prices or quotes solicited from vendors) must be obtained. | Department Head                      |
| \$10,001 to \$25,000          | Three informal bids (e.g. printouts from websites showing prices or quotes solicited from vendors) must be obtained. | Department Head and Purchasing Agent |
| \$25,001 to \$50,000          | A formal RFP or RFQ must be prepared and publicized, with sealed submissions opened on a predetermined date.         | Department Head and Purchasing Agent |
| Over \$50,000.00              | A formal RFP or RFQ must be prepared and publicized, with sealed submissions opened on a predetermined date.         | Board of Supervisors                 |

**A. Less than or equal to \$5,000**

These purchases can generally be made without any specific competitive processes, but departments are encouraged to price shop to ensure that the County is getting the best value for its money. That said, the County recognizes that for these lower value purchases, the cost of the employee time spent price shopping can often exceed the savings to be realized from price shopping. Therefore, departments are encouraged to holistically consider all factors when determining how to obtain the best value for the County.

At the discretion of individual department heads, these purchases may also be approved by designees within the department – for example, deputy directors or assistant directors.

**B. Between \$5,001 and \$25,000**

Purchases in this dollar range require three informal bids, but approval authority differs based on the amount of the purchase. For purchases less than or equal to \$10,000, the department head is the only approver necessary. For purchases less than or equal to \$25,000, both the department head and the Purchasing Agent must approve the purchase.



An informal bid can consist of either a printout showing the price of an item or service or a quote prepared by a vendor. All quotes must be in writing. Verbal quotes are not sufficient. If a vendor provides a verbal quote, the employee must request written confirmation via a confirmatory email or letter. The employee soliciting the quotes may choose which vendors to contact, but all employees are encouraged to focus their requests toward local vendors, to the extent that a local vendor can provide the item or service needed.

If an employee requests a quote from a vendor and the vendor does not respond within 72 hours, then the employee may still count that request toward the three quotes that they are required to obtain. That vendor, however, may be eliminated from the selection process at the employee's discretion. If no vendors respond to a request for quotes, the department may make the purchase without complying with any further competitive processes.

When assessing quotes, a department is not required to choose the lowest cost vendor. In fact, departments are discouraged from looking only at cost and should assess vendors holistically to determine which vendor can provide the overall best value to for the County. Factors that should be considered in addition to price include, but are not limited to, delivery time, the vendor's willingness to use an Inyo County standard contract or purchase order, the vendor's reputation in the industry, the quality of the vendor's product, and the vendor's return policy.

A department is never required to accept a quote, and when assessing quotes, a department may determine that none of the quotes obtained are responsive to their request or sufficient to meet their needs. If a department rejects all quotes, then the department may proceed with the purchase as if they are making a purchase of less than \$5,000.

### **C. Between \$25,001 to \$50,000**

Purchases over \$25,000 but below \$50,000 require a formal Request for Proposals ("RFP") or Request for Qualifications ("RFQ"). These formal RFP/RFQs differ from informal quotes in that the department leading the procurement must prepare a written description of the item or service that it is seeking. Vendors may then respond to the RFP/RFQ with a proposal. The department will open all responses on a set date and time and will choose the vendor who provides the best overall quality and value to the County.

Department have significant freedom to structure the RFP/RFQ process in whatever manner works for them, and the County encourages departments to be creative with their RFP/RFQs to ensure that they receive the maximum number of responses. That said, there are some rules that all RFP/RFQs must follow:

- Cannot favor one brand over another. For example, a RFP for a car may request a mid-sized crossover vehicle that seats 5 people with all-wheel drive and that has a dealership within 60 miles of Independence, CA. Conversely, the RFP may not specify that the County is seeking bids for a Honda CRV or a Toyota RAV4. However, it may be the case, that in certain situations, only one brand is compatible with a department's existing equipment. In this case, the department may explain their existing equipment in the RFP

and state that they are seeking bids only for brands that are compatible with the existing equipment.

- Must be published in specified sources. RFP/RFQs best serve the purpose of increasing competition and ensuring unbiased procurements if the County receives multiple responses to the RFP/RFQ. The County can only receive multiple responses if vendors and the general public are made aware of the RFP/RFQ. Accordingly, at a minimum, all RFP/RFQs must be published on the County website and in a local printed newspaper of general circulation for at least 10 days. Department heads are also encouraged to make efforts to publish the RFP/RFQ in industry-specific sources or send the RFP/RFQ to vendors who might be interested in responding.
- Bids must be sealed. All RFP/RFQs must instruct respondents to submit their proposals in a sealed envelope. These sealed proposals must all be opened at a specified time with at least two employees observing the opening. All RFP/RFQs must instruct respondents that they are not allowed to discuss the contents of their proposal with County employees before the opening date. Any respondent who does so will be disqualified. Respondents may ask the County employee managing the RFP/RFQ clarifying questions, but those questions should not reveal the contents of the bidder's proposal. Any questions that a County employee answers must be posted publicly (for example, online) so that all respondents have access to the same information when formulating their proposals.
- Must include a copy of the contract that the department will ask the vendor to enter into. All RFP/RFQs must include a copy of the standard County contract that the department wants the respondent to enter into. Departments should consult with County Counsel to determine the appropriate contract prior to releasing the RFP/RFQ. Departments are also encouraged to include a scoring rubric with the RFP/RFQ so that respondents know how their responses will be scored.
- Must be reviewed by County Counsel. All RFP/RFQs must be reviewed by County Counsel to determine compliance with all laws and legal requirements.
- Must include an admonition that all responses are considered public records. Due to the County's obligations under the Public Records Act, all RFP/RFQs must warn respondents that any documents that they submit to the County—such as price lists, customer lists, or business plans—may be disclosed to any member of the public upon request.
- Must include a statement that any bidder who wishes to challenge the bidding or procurement process must file a complaint in conformance with Chapter 6.30 of the Inyo County Code.

As with informal bids, when assessing RFP/RFQ responses, departments are encouraged to consider the value of the whole package, rather than considering only price. Additionally, if a department receives no responses to a RFP/RFQ or determines that none of the respondents meet the minimum standards set forth in the RFP/RFQ, the department may make the purchase or enter into a contract with no further compliance with the competitive process.

Once the department has selected a winning respondent and finalized negotiations over contract terms with the respondent, the department head must seek approval from the Purchasing Agent before executing the contract with the vendor. Additionally, all contracts must be reviewed and approved by County Counsel, Risk Management, the Auditor, and Personnel. When reviewing the procurement, all reviewers shall ensure that the department has complied with all Title VI of the Inyo County Code, this Policy, and any other purchasing requirement. Departments are strongly encouraged to vet their RFP/RFQ with the reviewing departments *before* releasing the RFP to the general public. This will allow reviewing departments an opportunity to correct any errors or problems with the RFP that could result in one of the reviewing departments refusing to approve the final contract.

#### **D. Over \$50,001**

The rules and process governing RFP/RFQs for procurements or contracts over \$50,000 are the same as RFP/RFQs for purchases between \$25,000 and \$50,000. However, the final step in the process differs, as procurements over \$50,001 must be approved by the Board of Supervisors. Therefore, these contracts must be placed on the Board of Supervisor's agenda through Civic Clerk.

#### **E. "Per Vendor" Versus "Per Purchase" Limits**

There is one important way in which the purchase of goods and service differ. When it comes to goods, the limits provided above apply only to each individual purchase. The limits do not consider the aggregate total purchased from a single vendor in one year. In other words, if a department buys \$500 worth of tools on 100 occasions during a fiscal year from a single vendor, these purchases are assessed as 100 individual purchases. Because each of these purchases is below \$1,000, no competitive process is required. This is a notable change from past practice, when this purchasing pattern would have required a blanket purchase order.

On the other hand, per Government Code section 25502.3, dollar limits for the purchase of services must be considered on an aggregate basis. Therefore, if a department were to purchase \$500 worth of plumbing services on 100 different occasions during a fiscal year, that would have to be treated as a purchase for \$50,000. Per the limits set forth above, a \$50,000 purchase would require a RFP/RFQ and Board approval of the contract. In a sense, then, blanket purchase orders still exist, but only when it comes to the purchase of repeated services.

#### **F. De Minimus Contract Changes**

For contracts that require Board approval, no aspect of the contract can be changed post-approval without a formal amendment. However, occasions sometimes arise when a department needs to make a minor change to the dollar amount of a contract. In these cases, where the change is de minimus, it is not a good use of the department's or the Board of Supervisor's time to have to go through the formal amendment process to make such a minor change. Accordingly, for contracts that require Board approval, the Purchasing Agent may authorize an increase in the contract amount up to \$5,000 on one occasion during the life of the contract. For contracts below

\$50,000, the Auditor or the Purchasing Agent may authorize an increase in the contract amount up to \$500 on one occasion.

#### **IV. Procurement of Real Property and Leases (Inyo County Code Chapter 6.24)**

All purchases and leases of real property must be completed by the Board of Supervisors. In other words, there is no delegated authority for a department or the Purchasing Officer to lease or purchase real property without Board approval. Accordingly, leases and purchases of real property will be handled on a case-by-case basis, rather than being described in this Policy.

**V. Procurements Related to Public Works Projects (Inyo County Code Chapter 6.14)**

A public works project is any purchase associated with the “construction, improvement, alteration, painting or repair of any public building or facility identified in Public Contract Code Section 20121 or 20150.2.” Unlike the purchase of goods and services, where the County has significant freedom to set rules and dollar limits, public works projects are controlled by highly specific state laws. These laws are primarily found in the Public Contract Code, Division 2, Part 3, Articles 3.5 and 3.6 (section 20120, *et seq.*). Additionally, because Inyo County has chosen to opt into the California Uniform Public Construction Cost Accounting Act, public works purchases must also comply with Public Contract Code section 22000, *et seq.*

Because state law is so specific and detailed when it comes to public works projects, Title VI and this Policy provide less information regarding public works projects. Therefore, any County employee engaging in a public works project must understand that this Policy does not provide a complete picture regarding the rules governing public works projects and should also review the relevant sections of the Public Contract Code.

Per CUPCCAA, the bidding requirements for Public Works projects are as follows:<sup>4</sup>

| <b>Amount</b>                  | <b>Required Action</b>   | <b>Approval Authority</b> |
|--------------------------------|--|---------------------------|
| Less than \$60,000             | No specific competitive process is required. The work may be performed by County staff, by a contract negotiated directly with a qualified individual, or by purchase order. | Public Works Director     |
| Between \$60,001 and \$200,000 | Three informal bids must be obtained per the procedure set forth in Public Contract Code section 22034   | Public Works Director     |
| Over \$200,000                 | A formal bidding process is required per the procedure set forth in Public Contract Code section 22037   | Board of Supervisors      |

As detailed in the above chart, for public works purchases less than \$60,000, no specific process is required. However, the Public Works Department must always endeavor to obtain the best value for the County. Price shopping is always encouraged.

For purchases between \$60,000 and \$200,000, the Public Works Department must comply with the procedures set forth in Inyo County Code section 6.14.070. This section contains the informal bidding rules required by CUPCCAA. Specifically, these rules require that the Public Works Department do the following:

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<sup>4</sup> Public Contract Code § 22032.

1. Maintain a list of qualified contractors for various categories of work. Qualifications for admission to this list is determined by the California Uniform Public Construction Cost Accounting Commission.
2. Prepare a notice inviting informal bids that describes the project in general terms and how to obtain more detailed information about the project.
3. Inform all contractors who have been placed on the list of qualified contractors of all informal bids for which they are qualified at least 14 days before the bid is due. The notification to contractors must occur via whatever method the contractor chose when they signed up for the qualified contractors list.
4. Provide a notice inviting informal bids to all construction trade journals specified in Public Contract Code section 22036.

If all bids received under the informal bidding process are over \$200,000, the Board of Supervisors may still award a contract, but only if that contract is for less than \$212,500.<sup>5</sup> If a contract cannot be negotiated for less than \$212,500, then the Public Works Department must re-bid the project via the formal bidding process.

For formal bids, the Public Works Department must do the following:<sup>6</sup>

1. Present plans, specifications, and working details to the Board of Supervisors for approval and adoption<sup>7</sup>
2. Prepare a notice inviting formal bids that states the time and place for the receiving and opening of sealed bids and distinctly describe the project.
3. Publish the notice at least 15 calendar days before the date of opening the bids in a local newspaper and send the notice electronically to all construction trade journals specified in Public Contract Code Section 22036.

After receiving bids, the Public Works Department may take one of the following actions:<sup>8</sup>

1. Award the contract to the lowest responsible bidder
2. Reject all bids received and, after reevaluation of the costs of the project, decide that the work can be performed more economically by County employees. When taking this route, the Public Works Department must schedule a noticed public hearing before the Board of Supervisors, obtain 4/5 Board approval of the decision to reject all bids, and send notice of the hearing at least 2 days prior to the apparent low bidder.

If no bids are received, the Public Works Department may proceed as if the contract is below \$60,000, regardless of the actual dollar amount.

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<sup>5</sup> Public Contract Code § 22034(d).

<sup>6</sup> Public Contract Code § 22037.

<sup>7</sup> Public Contract Code § 22039

<sup>8</sup> Public Contract Code § 22038.

**VI. Procurements Related to Road and Bridge Projects (Inyo County Code Chapter 6.16)**

Procurements related to road projects are governed by Inyo County Code Chapter 6.16, Public Contract Code section 20390, *et seq.* (roads), and Public Contract Code section 20400, *et seq.* (bridges).

**A. Road Projects (Inyo County Code § 6.16.030)**

| <b>Amount</b>                 | <b>Required Action</b>  | <b>Approval Authority</b>     |
|-------------------------------|---|-------------------------------|
| Less than \$25,000            | Board must find that the estimate is less than \$25,000; Road Commissioner may then contract for the work to be performed with no bidding | Board; then Road Commissioner |
| Between \$25,001 and \$50,000 | Sealed, formal bids required  | Road Commissioner             |
| Over \$50,000                 | Sealed, formal bids required  | Board of Supervisors          |

Procurements related to road projects have somewhat odd requirements in the sense that only the cheapest and the most expensive purchases require Board involvement. For procurements less than \$25,000, the Road Commissioner is empowered to contract for labor and materials with no competitive bidding process.<sup>9</sup> However, the Road Commissioner may only do so after bringing an estimate to the Board of Supervisors and obtaining Board approval of the accuracy of the estimate. There is no statutory authority permitting the Board to delegate its power regarding estimate approval; therefore, road project procurements of \$25,000 or less will always require input from the Board.

For procurements between \$25,000 and \$50,000, the Board is empowered by Public Contract Code section 20394.5 to delegate the entire process to the Road Commissioner, and has done so via Inyo County Code section 6.16.040. The Road Commissioner must obtain sealed formal bids for any projects that fall in this dollar range. After opening these bids and choosing a winning bidder, the Road Commissioner is empowered to enter into a contract with the winning bidder without obtaining Board approval.

Finally, for procurements over \$50,000, the process is the same as procurements between \$25,000 and \$50,000, except that the Road Commissioner must bring the contract to the Board for approval.

There are some additional requirements to keep in mind for all road project procurements:

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<sup>9</sup> Public Contract Code § 20394.



- For all road projects over \$20,000, Public Contract Code section 20391 requires the preparation of surveys, profiles, cross-sections, plans, and specifications of the proposed work.
- For any road project that requires formal bidding, notice of the call for bids must be published at least 10 times in a daily newspaper or 2 times in a weekly newspaper.<sup>10</sup>
- The Road Commissioner has the following change order authority:<sup>11</sup>
  - For contracts of \$50,000 or less – up to \$5,000
  - For contracts between \$50,000 and \$250,000 – up to 10% of the original contract price
  - For contracts over \$250,000 – up to \$25,000, plus 5% of the amount of the original contract cost in excess of \$250,000
  - No matter the price of the contract, no change order shall exceed \$210,000

**B. Bridge Projects (Inyo County Code § 6.16.080)**

| <b>Amount</b>                | <b>Required Action</b>  | <b>Approval Authority</b> |
|------------------------------|---|---------------------------|
| Less than \$2,000            | No formal bidding process or contract required  | Road Commissioner         |
| Between \$2,000 and \$10,000 | No formal bidding process, but the goods or service to be purchased must be set forth in a contract | Road Commissioner         |
| Over \$10,000                | Sealed, formal bids required  | Board of Supervisors      |

Bidding thresholds for bridge projects are much lower than road projects. For bridge procurements less than \$2,000, no bidding—or even a contract—is required.<sup>12</sup> For bridge procurements between \$2,000 and \$10,000, no bidding is required, but the purchase must be memorialized in a contract that can be executed by the Road Commissioner.<sup>13</sup> For bridge procurements over \$10,000, a sealed, formal bidding process is required, with the Board approving the contract that comes out of that process. Formal bids for bridge procurements must be noticed 10 times in a daily newspaper or 2 times in a weekly newspaper.<sup>14</sup>

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<sup>10</sup> Public Contract Code § 20392.

<sup>11</sup> Public Contract Code § 20395.

<sup>12</sup> Public Contract Code § 20403.

<sup>13</sup> Public Contract Code § 20402.

<sup>14</sup> Public Contract Code § 20404.

## **VII. Emergency Purchasing (Inyo County Code Chapter 6.22)**

Any employee making a purchase during an emergency event must first consider 1) which entity, if any, has declared a state of emergency and 2) where the funds to make the purchase come from. The procedures and rules described in this manual relate to a County-declared state of emergency where County money is being spent to respond to the emergency. However, larger emergencies that go beyond Inyo County's borders often include state or federal-level emergency proclamations and state or federal-level funding to respond to the emergency. Often, these non-County funds have their own procurement rules. Describing all of these procurement rules is beyond the scope of this Policy, so any employee making a purchase during a state of emergency should pay careful attention to the source of the money that they are spending.

### **A. Emergency Purchases of Services and Goods (Inyo County Code § 6.22.010)**

Whenever the Board of Supervisors has proclaimed a local emergency pursuant to Government Code section 8630, more lenient purchasing procedures apply for personal property and services.<sup>15</sup> Procedures are more lenient in an emergency because emergencies often necessitate that unpredictable and potentially expensive purchases be made quickly to protect public health, safety, and welfare. This situation makes it impossible to comply with procedures such as RFP/RFQs or taking purchases to the Board of Supervisors for approval.

As set forth in section 6.22.010 of the County Code, when the Board has declared a state of emergency pursuant to Government Code section 8630, all limits on the Purchasing Agent's delegated authority are removed. In other words, the Purchasing Agent may make any purchases necessary to respond to the state of emergency without seeking the approval of the Board of Supervisors and without any competitive process. However, the Purchasing Agent must endeavor—to the maximum extent possible and in recognition of the uniqueness of each emergency—to collect informal bids from at least three sources before making any purchase pursuant to this section.

The Purchasing Agent is also authorized to further delegate purchasing authority to the Incident Commander if Inyo County stands up an Emergency Operations Center to handle the emergency.

### **B. Emergency Purchases for Public Works Projects (Inyo County Code § 6.22.020)**

There are no monetary limits on the power of the Public Works Director to spend money to perform emergency repairs to any structure that constitutes a public work, nor is it necessary for there to be a declared state of emergency per Government Code section 8630. Additionally, the Public Works Director is not required to collect any bids. However, per Public Contract Code section 20134(a) and as set forth in section 6.22.020 of the County Code, there are specific procedures that the Public Works Director must follow before performing emergency work.

These procedures are set out in Public Contract Code section 22050, and it is strongly advised that any employee performing an emergency repair on a public work both read section 22050 and consult with County Counsel. Generally, section 22050 requires that the Board of

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<sup>15</sup> Gov't Code § 25502.7.

Supervisors find, by 4/5 majority, that damage to a structure has created an emergency situation that necessitates such immediate action that bidding would be impossible. There is a continuing obligation for the Board of Supervisors to renew its finding of an emergency situation every two weeks, and there are specific limits on how much a contractor may add to its materials costs to cover overhead and administration when performing emergency work.

If the Public Works Director determines that the repair must be made so quickly that the matter cannot be brought before the Board of Supervisors for an emergency finding, the Public Works Director may authorize such repairs to be performed. The Public Works Director must then, at the next regularly scheduled Board of Supervisors meeting, bring the matter before the Board and seek authorization to continue the work.

### **C. Emergency Purchases for Road Projects (Inyo County Code § 6.22.030)**

The Road Commissioner may authorize the immediate expenditure of up to \$25,000 to repair a road in the case of a landslide, flood, storm damage, or other emergency situation or to prepare for an imminent emergency (such as forecasted heavy rain that is likely to cause landslides on a county road).<sup>16</sup> Emergency expenditures over \$25,000 require Board of Supervisor approval. In both situations—i.e. both over and under \$25,000—there is no requirement to seek bids.

### **D. Emergency Purchases for Bridge Projects (Inyo County Code § 6.22.040)**

Emergency repairs to a bridge cannot be made without Board of Supervisor authorization. In other words, there is no ability in California law to delegate decision-making authority regarding emergency bridge repairs to the Public Works Director, like there is for repairs to structures or roads. That said, if a situation arises where an emergency necessitates the immediate expenditure of funds on a bridge, the Road Commissioner is encouraged to consult with County Counsel, as there may be alternative avenues to legally spend funds to repair a bridge without the delay required by seeking Board approval.

However, unlike structural emergencies, authorization to perform emergency work on a bridge requires only a 3/5 simple majority.<sup>17</sup> Once the Board of Supervisors has made the emergency finding, the Road Commissioner or Public Works Director is free to immediately contract to repair the bridge without soliciting any bids.

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<sup>16</sup> Public Contract Code § 20395(c).

<sup>17</sup> Public Contract Code § 20407.

## **VIII. Dispute Resolution Procedures (Inyo County Code Chapter 6.30)**

When a bidder is not selected as a winning bidder following an informal or formal quote or bid process, that unsuccessful bidder sometimes attempts to challenge the County's decision to award the bid to someone else on the grounds that the bidding process was unfair or out of compliance with state law. To address these situations, the County has created a mandatory dispute resolution process that any aggrieved bidder must use.

This process is set out in Chapter 6.30 of the Inyo County Code. It applies to all types of procurements—be it a public works project, a purchase of office supplies, or graphic design services. If a department receives notice of a protest, they should contact County Counsel immediately for further guidance.

Protests must be submitted within 10 days of the notification of award to bidders. Thus, if you have not received any protests 10 days after you notified all bidders of the winning bidder, you can be fairly certain that your procurement will not be challenged on the basis of any alleged irregularities in the bidding process.

## **IX. Sale and Transfer of Surplus County Personal Property (Inyo County Code Chapter 6.28)**

When County property is no longer needed for County operations, the County will dispose of it either via an auction or by donation. Generally, unneeded County property may be donated only to a nonprofit entity or another government entity. If the property is going to be transferred to a for-profit entity or an individual, it must be sold at a public auction. The major issue to pay attention to when disposing of unneeded County property is the required notice period. The type of transfer (*i.e.* donation or auction) and the intended recipient of the property can alter the required notice period.

Any department that is transferring a fixed asset to surplus must notify the Auditor. Additionally, if a department has declared an item surplus, that item must be secured and stored at a County facility until it is sold, donated, or disposed of.

### **A. Sale of Surplus Property (Inyo County Code § 6.28.040)**

The most common procedure to sell surplus property is a public auction. Per the Government Code<sup>18</sup> and the Inyo County Code, the following procedures apply to a public auction.

First, the department head must inform the Purchasing Agent that the department has surplus property to dispose of. While there is no rule forbidding a department from holding its own auction, it often saves time and labor for multiple departments to consolidate their surplus items into one auction. Thus, the Purchasing Agent will monitor the level of surplus goods and arrange a multi-department auction when appropriate.

Second, if the estimated value of any of the property to be auctioned exceeds \$10,000, the Purchasing Agent must seek Board approval to dispose of it. If none of the Property to be auctioned is worth more than \$10,000, you may skip this step.

Third, after the Purchasing Agent has arranged the logistics of the auction (which generally occur online via a third-party platform), notice of the auction must be given for five days prior to the start either by publication in a local newspaper or by posting notice in three public places in the County.

Exceptions to this process include:

The County is permitted to dispose of property worth less than \$500 without a public auction if the Board of Supervisors *unanimously* votes that the property is worth less than \$500.<sup>19</sup> This rule also applies to products from a County farm. Following the sale, the Purchasing Agent must report back to the Board the results of the sale.

The County is permitted to sell personal property to any road improvement, lighting, irrigation, waterworks, flood control, or other special district within the County whose affairs and funds are

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<sup>18</sup> Gov't Code § 25363.

<sup>19</sup> Gov't Code 25363.

under the supervision and control of the Board or for which the Board is ex officio the governing body without any auction.<sup>20</sup>

The County is permitted to donate or sell property to a community redevelopment agency, housing authority, community development commission, surplus property authority, federal agency, city, school district, County Board of Education, special district, joint powers agency, or any other public agency within the County without an auction. However, a 4/5 vote of the Board of Supervisors is required and notice of the intended sale or donation must be posted at least one week before the matter is brought to the Board.<sup>21</sup>

## **B. Donation of Surplus Property**

The Board of Supervisors may vote to donate any County property to the following organizations on any terms that it deems appropriate:<sup>22</sup>

- (1) A 501(c)(3) organization that is organized for the care, teaching, or training of children or developmentally disabled children.
- (2) A 501(c)(3) organization that is organized for the care, teaching, or training of Native Americans.
- (3) A school district or community college district.
- (4) A county children and families commission established pursuant to the California Children and Families Act of 1998.
- (5) A 501(c)(3) organization that is organized to provide health or human services.<sup>23</sup>

Additionally, the Board may authorize the donation of surplus computer equipment to any individual who is receiving any of the following public benefits: CalFresh, CalWORKs, County Relief, General Relief, General Assistance, or Medi-Cal. The transfer of this equipment must be managed by the public assistance division of Health and Human Services. HHS must develop a list of eligible people who have requested computer equipment and develop a fair and impartial procedure to disburse the equipment. Recipients of the equipment must sign an agreement stating that they agree not to resell it.

Finally, it is possible to donate property to other community-focused organizations that are not on the list above. However, this is a more complicated process that tends to be unique to each situation. Thus, for any such donations, departments should consult with County Counsel.

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<sup>20</sup> Gov't Code § 25366.

<sup>21</sup> Gov't Code § 25365.

<sup>22</sup> Gov't Code § 25373.

<sup>23</sup> This list represents the most common organizations that the County will donate surplus goods to. However, this is not an exclusive list. Departments are encouraged to contact County Counsel to determine if there is a method to donate to community-focused or governmental organizations not on this list.