**SAMPLE AGREEMENT FOR**

**CONTRACTOR SERVICES**

THIS AGREEMENT for construction services ("Agreement") is made as of the Agreement Date set forth below by and between the County of Yuba, a political subdivision of the State of California ("the COUNTY"), and

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

"CONTRACTOR"

In consideration of the Services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

**OPERATIVE PROVISIONS**

1. **SERVICES.**

The CONTRACTOR shall provide those services described in Attachment "A", Provision A-1. CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A", Provisions A-2 through A-3.

1. **TERM.**

Commencement Date: 12/16/09 Termination Date: 1/31/09

The term of this Agreement shall become effective on December 16, 2009, and shall continue in force and effect for a period of forty-five day(s), unless sooner terminated in accordance with the terms of this Agreement.

CONTRACTOR understands and agrees that there is no representation, implication, or understanding that the services provided by CONTRACTOR pursuant to this Agreement will be purchased by COUNTY under a new agreement following expiration or termination of this Agreement, and CONTRACTOR waives all rights or claims to notice or hearing respecting any failure to continue purchase of all or any such services from CONTRACTOR.

1. **PAYMENT.**

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

Page 1 of 3

1. **FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS**

**OF COUNTY.**

CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement, unless an exception to this requirement is provided in Attachment "A", Provision A-4.

1. **ADDITIONAL PROVISIONS.**

Those additional provisions unique to this Agreement are set forth in Attachment "C".

1. **GENERAL PROVISIONS.**

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

1. **DESIGNATED REPRESENTATIVES.**

The COUNTY’S Purchasing Agent, is the designated representative of the COUNTY and will administer this Agreement for the COUNTY. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is the authorized designated representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party.

1. **ATTACHMENTS.**

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

Attachment A - Services

Attachment B - Payment

Attachment C - Additional Provisions

Attachment D - General Provisions

Attachment E – Insurance Provisions

**9. TERMINATION.** COUNTY and CONTRACTOR shall each have the right toterminate this Agreement upon ten (10) days written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have executed this

Agreement on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2009.

Page 2 of 3

"COUNTY" "CONTRACTOR"

COUNTY OF YUBA

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Doug McCoy, ,

Purchasing Agent Owner

INSURANCE PROVISIONS APPROVED

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Martha Wilson,

Risk Manager

APPROVED AS TO FORM

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Angil Morris-Jones,

County Counsel

Page 3 of 3

**ATTACHMENT A**

**A.1** **SCOPE OF SERVICES AND DUTIES.**

The services to be provided by CONTRACTOR and the scope of CONTRACTOR©s duties include the following:

**A.1.1.** Inspection and abatement of South Annex Building (approx. 37,679 sq ft.)

**A.1.2.** Abatement must include the collection and disposal of all asbestoscontaining and contaminated materials and subsequent cleaning of contaminated areas as required by law to demolish building.

**A.1.3.** Abatement, collection and disposal must be performed in accordance withall applicable laws. Vendor is solely responsible for knowledge of and compliance to all applicable laws and regulations.

**A.1.4.** Secure all required permits and notifications as required by law. All feesfor such permits and notifications are the responsibility of the CONTRACTOR. CONTRACTOR shall provide copies of all such permits and notifications to

COUNTY.

**A.1.4.** Provide site security during abatement operations.

**A.2.** **TIME SERVICES RENDERED.**

The services will be provided on such dates and at such times as specified by the COUNTY. Specific date(s) to be mutually agreed upon by the COUNTY and CONTRACTOR.

**A.3.** **MANNER SERVICES ARE TO BE PERFORMED.**

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

**A.4.** **FACILITIES FURNISHED BY COUNTY.**

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

Attachment A - Page 1 of 1

**COUNTY OF YUBA**

**ATTACHMENT B**

**PAYMENT**

COUNTY shall pay CONTRACTOR as follows:

**B.1 BASE CONTRACT FEE.** COUNTY shall pay CONTRACTOR a contract fee not toexceed \_\_\_\_\_\_\_\_\_\_\_\_\_ ($ ); CONTRACTOR shall submit requests for payment after completion of services or no later than the tenth (10th) day of the month following provision of services. In no event shall total compensation paid to CONTRACTOR under this Provision B.1

exceed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ($ ) without a formal written amendment to this Agreement

approved by the COUNTY.

**B.2 TRAVEL COSTS.** COUNTY shall not pay CONTRACTOR for meals, lodging orother travel costs not included in this Agreement unless said costs are approved in advance by the COUNTY representative (Operative Provision 7) and then COUNTY shall pay COUNTY’S per diem rates in effect on the date of invoice upon presentation of invoices.

**B.3 AUTHORIZATION REQUIRED.** Services performed by CONTRACTOR and notauthorized in this Agreement shall not be paid for by COUNTY. Payment for additional services shall be made to CONTRACTOR by COUNTY if, and only if, this Agreement is amended by both parties in advance of performing additional services.

Attachment B - Page 1 of 1

**ATTACHMENT C**

**OTHER TERMS**

**C.1 FUNDING.** CONTRACTOR and COUNTY agree that this Agreement will be null, void andnot enforceable if all or part of the funds secured by COUNTY for the purposes of this Agreement are not made available to COUNTY. If this provision is invoked, COUNTY shall be liable for work already completed by CONTRACTOR at contracted rates.

**C.2 FORCE MAJEURE.** Neither party shall be liable in damages or have the right toterminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

**C.3** **LAW, POLICY AND PROCEDURES, LICENSES, AND CERTIFICATES.**

CONTRACTOR agrees to administer this Agreement in accordance with all applicable local, county, state, and federal laws, rules, and regulations applicable to their operations. CONTRACTOR shall further comply with all laws including, but not limited to, those relevant to wages and hours or employment, occupational safety, fire safety, health, sanitation standards and directives, guidelines, and manuals related to this Agreement. All issues shall be resolved using reasonable administrative practices and judgment. CONTRACTOR shall keep in effect all licenses, permits, notices, and certificates required by law and by this Agreement.

**C.4 RECORDS.** CONTRACTOR agrees to maintain and preserve, and to be subject toexamination and audit for a period of three (3) years after termination of agreement to the COUNTY’s Auditor and/or to any duly authorized fiscal agent of the COUNTY, any books, documents, papers, and records of CONTRACTOR which are relevant to this Agreement for the purpose of making an audit, or an examination, or for taking excepts and transcriptions.

**C.5 HAZARDOUS MATERIALS**. CONTRACTOR shall identify all hazardous materialsas required under the California Code of Regulations and the State Health Safety Code. CONTRACTOR shall provide Material Safety Data Sheets (MSDS) for all products that may contain hazardous materials to the COUNTY.

**C.6 ACCEPTANCE.** All work performed and completed under the Agreement is subject tothe acceptance of the COUNTY or its authorized representatives. Payment shall be made after inspection and approval by COUNTY. Failure by the CONTRACTOR to take corrective action within 24 hours after personal or telephonic notice by the COUNTY’s representative on items affecting essential use of the facility, safety or the preservation of property, and within ten days following written notice on other deficiencies, will result in the COUNTY taking whatever corrective action it deems necessary. All costs resulting from such action by the COUNTY will be claimed against CONTRACTOR.

Attachment C - Page 1 of 1

**ATTACHMENT D**

**GENERAL PROVISIONS**

**D.1 INDEPENDENT CONTRACTOR STATUS.** At all times during the term of thisAgreement, the following apply:

**D.1.1** All acts of CONTRACTOR shall be performed as an independentContractor and not as an agent, officer or employee of COUNTY. It is understood by both CONTRACTOR and COUNTY that this Agreement is by and between two independent parties and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

**D.1.2** CONTRACTOR shall have no claim against COUNTY for employeerights or benefits, including, but not limited to, seniority, vacation time, vacation pay, sick leave, personal time off, overtime, medical, dental or hospital benefits, civil service protection, disability retirement benefits, paid holidays or other paid leaves of absence.

**D.1.3** CONTRACTOR is solely obligated to pay all applicable taxes, deductionsand other obligations, including, but not limited to, federal and state income taxes, withholding and Social Security taxes, unemployment and disability insurance and Workers’ Compensation and Medi-Care payments.

**D.1.4** As an independent Contractor, CONTRACTOR is not subject to thedirection and control of COUNTY except as to the final result contracted for under this Agreement. COUNTY may not require CONTRACTOR to change its manner of doing business, but may require it to redirect its efforts to accomplish what it has agreed to do.

**D.1.5** CONTRACTOR may provide services to others during the same periodservice is provided to COUNTY under this Agreement.

**D.1.6** If in the performance of this Agreement any third persons are employed byCONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision and control of CONTRACTOR. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the

CONTRACTOR.

**D.1.7** As an independent Contractor, CONTRACTOR hereby indemnifies andholds COUNTY harmless from any and all claims that may be made against

Attachment D – Page 1 of 7

COUNTY based on any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

**D.2 LICENSES, PERMITS, ETC.** CONTRACTOR represents and warrants to COUNTYthat it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed. Failure of the CONTRACTOR to comply with this provision shall authorize the COUNTY to immediately terminate this agreement notwithstanding Operative Provision No. 9.

**D.3 TIME.** CONTRACTOR shall devote such time to the performance of services pursuantto this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR©s obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

**D.4 INDEMNITY.** CONTRACTOR shall defend, indemnify, and hold harmless COUNTY,its elected and appointed councils, boards, commissions, officers, agents, and employees from any liability for damage or claims for damage for personal injury, including death, as well as for property damage, which may arise from the intentional or negligent acts or omissions of CONTRACTOR in the performance of services rendered under this Agreement by CONTRACTOR, or any of CONTRACTOR©s officers, agents, employees, contractors, or sub-contractors.

**D.5 CONTRACTOR NOT AGENT.** Except as COUNTY may specify in writing,CONTRACTOR shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind COUNTY to any obligation whatsoever.

**D.6 ASSIGNMENT PROHIBITED.** CONTRACTOR may not assign any right orobligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

**D.7 PERSONNEL.** CONTRACTOR shall assign only competent personnel to performservices pursuant to this Agreement. In the event that COUNTY, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONTRACTOR to perform services pursuant to this Agreement, CONTRACTOR shall remove any such person immediately upon receiving written notice from COUNTY of its desire for removal of such person or persons.

**D.8 STANDARD OF PERFORMANCE.** CONTRACTOR shall perform all servicesrequired pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of

Attachment D – Page 2 of 7

whatsoever nature which CONTRACTOR delivers to COUNTY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards or quality normally observed by a person practicing in CONTRACTOR©s profession.

**D.9 POSSESSORY INTEREST.** The parties to this Agreement recognize that certain rightsto property may create a "possessory interest", as those words are used in the California Revenue and Taxation Code, §107. For all purposes of compliance by COUNTY with Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by the COUNTY. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the County Assessor and the contracting parties hereto. A taxable possessory interest may be created by this contract; and if created, the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

**D.10 TAXES.** CONTRACTOR hereby grants to the COUNTY the authority to deduct fromany payments to CONTRACTOR any COUNTY imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to

CONTRACTOR.

**D.11 TERMINATION.** Upon termination of this Agreement as otherwise provided herein,CONTRACTOR shall immediately cease rendering service upon the termination date and the following shall apply:

**D.11.1** CONTRACTOR shall deliver copies of all writings prepared by it pursuant tothis Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing and form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

**D.11.2** COUNTY shall have full ownership and control of all such writings or othercommunications delivered by CONTRACTOR pursuant to this Agreement.

**D.11.3** COUNTY shall pay CONTRACTOR the reasonable value of services renderedby CONTRACTOR to the date of termination pursuant to this Agreement not to exceed the amount documented by CONTRACTOR and approved by COUNTY as work accomplished to date; provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. In this regard, CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of the COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of the COUNTY shall be final. The foregoing is cumulative and does not affect any right or remedy which COUNTY may have in law or equity.

Attachment D – Page 3 of 7

CONTRACTOR may terminate its services under this Agreement upon thirty (30) days written notice to the COUNTY, without liability for damages, if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by COUNTY.

**D.12 NON-DISCRIMINATION.** Throughout the duration of this Agreement,CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age, sex or sexual orientation. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non -discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

**D.13 REHABILITATION ACT OF 1973/AMERICANS WITH DISABILITIES ACT OF 1990.** In addition to application of the non-discrimination provision of this Agreement, above,CONTRACTOR agrees to comply with all provisions of section 504 et seq. of the Rehabilitation Act of 1973, and with all provisions of the Americans with Disabilities Act of 1990, and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts, pertaining to the prohibition of discrimination against qualified handicapped and disabled persons, in all programs or activities, as to employees or recipients of services.

**D.14 OWNERSHIP OF INFORMATION.** All professional and technical informationdeveloped under this Agreement and all work sheets, reports, and related data shall become the property of COUNTY, and CONTRACTOR agrees to deliver reproducible copies of such documents to COUNTY on completion of the services hereunder. The COUNTY agrees to indemnify and hold CONTRACTOR harmless from any claim arising out of reuse of the information for other than this project.

**D.15 WAIVER.** A waiver by any party of any breach of any term, covenant or conditionherein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

Attachment D – Page 4 of 7

**D.16 COMPLETENESS OF INSTRUMENT.** This Agreement, together with its specificreferences and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

**D.17 SUPERSEDES PRIOR AGREEMENTS.** It is the intention of the parties hereto thatthis Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

**D.18 CAPTIONS.** The captions of this Agreement are for convenience in reference only andthe words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**D.19 DEFINITIONS.** Unless otherwise provided in this Agreement, or unless the contextotherwise requires, the following definitions and rules of construction shall apply herein.

**D.19.1 NUMBER AND GENDER.** In this Agreement, the neuter gender includes thefeminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

**D.19.2 MANDATORY AND PERMISSIVE.** "Shall" and "will" and "agrees" aremandatory. "May" is permissive.

**D.20 TERM INCLUDES EXTENSIONS.** All references to the term of this Agreement orthe Agreement Term shall include any extensions of such term.

**D.21 SUCCESSORS AND ASSIGNS.** All representations, covenants and warrantiesspecifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**D.22 MODIFICATION.** No modification or waiver of any provision of this Agreement or itsattachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

**D.23 COUNTERPARTS.** This Agreement may be executed simultaneously and in severalcounterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

**D.24 OTHER DOCUMENTS.** The parties agree that they shall cooperate in good faith toaccomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Attachment D – Page 5 of 7

**D.25 PARTIAL INVALIDITY.** If any term, covenant, condition or provision of thisAgreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**D.26 JURISDICTION.** It is agreed by the parties hereto that unless otherwise expresslywaived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a Court of competent jurisdiction in the County of Yuba, State of California.

**D.27 CONTROLLING LAW.** The validity, interpretation and performance of thisAgreement shall be controlled by and construed under the laws of the State of California.

**D.28 TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement and eachcovenant and term a condition herein.

**D.29 AUTHORITY.** All parties to this Agreement warrant and represent that they have thepower and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

**D.30 CONFLICT OF INTEREST.** Neither a COUNTY employee whose position inCOUNTY enables such employee to influence the award of this Agreement or any competing Agreement, nor a spouse or economic dependent of such employee, shall be employed in any capacity by CONTRACTOR herein, or have any other direct or indirect financial interest in this Agreement.

CONTRACTOR may be subject to the disclosure requirements of the COUNTY conflict of interest code if in a position to make decisions or influence decisions that could have an effect on the CONTRACTOR’s financial interest. The County Administrator shall determine in writing if CONTRACTOR has been hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in the Yuba County Conflict of Interest Code.

Attachment D – Page 6 of 7

**D.31 NOTICES.** All notices and demands of any kind which either party may require ordesire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "COUNTY":

Department of Administrative Services County of Yuba

Attn: Purchasing Agent 915 8th Street

Suite 119

Marysville, CA 95901

With a copy to: County Counsel County of Yuba 915 8 th Street Suite 111

Marysville, CA 95901

If to "CONTRACTOR":

Attachment D – Page 7 of 7

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Attachment E – Page 1 of 4

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Attachment E – Page 3 of 4

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Attachment E – Page 4 of 4