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SIERRA, SISKIYOU, TEHAMA, TRINITY, TUOLUMNE

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VICE CHAIR – BOB WILLIAMS, TEHAMA COUNTY  
EXECUTIVE DIRECTOR – GREG NORTON

TECHNICAL ADVISORY GROUP (TAG)  
TAG CHAIR – KRISTINA MILLER, TEHAMA COUNTY  
TAG VICE CHAIR – GRETCHEN OLSEN, TUOLUMNE COUNTY  
PROGRAM MANAGER – MARY PITTO

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## MEMORANDUM

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**To: ESJPA Board of Directors**

**From: Mary Pitto, Program Manager**

**Date: November 30, 2011**

**RE: ESJPA – RCRC Contract Services Agreement – CY 2012**

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The proposed ESJPA – RCRC Contract Services Agreement for the 2012 calendar year is shown on the following pages and is presented for your consideration and approval.

The purpose of this agreement is to provide personnel services for technical and grant-related activities. The terms and conditions of the 2012 contract remain consistent with the 2011 contract. RCRC will continue to provide technical and grant-related personnel services to the ESJPA. The ESJPA would pay RCRC \$7,500 per month (\$90,000 per year) out of the membership dues for advocacy efforts and regulatory involvement.

The Agreement also provides that the ESJPA will pay RCRC for reimbursable grant-related activities (principally staff time) on a per hour basis calculated monthly. This amount includes direct and indirect personnel costs consistent with the terms and conditions of each grant or contract ESJPA is assigned to implement on behalf of participating member jurisdictions.

**Recommendation:**

It is recommended that the ESJPA Board adopt the 2012 ESJPA – RCRC Contract Services Agreement.

## AGREEMENT

THIS AGREEMENT ("Agreement"), dated as of January 1, 2012, is entered into by and between the Rural Counties' Environmental Services Joint Powers Authority, a joint powers agency organized and operated under Articles 1-4 of Chapter 5 of Division 7 of Title I (commencing with Section 6500) of the California Government Code (hereinafter "ESJPA"), and the Regional Council of Rural Counties, a California nonprofit corporation (hereinafter "Contractor").

### R E C I T A L S

WHEREAS, ESJPA desires to obtain the services of Contractor; and,

WHEREAS, Contractor is competent and willing to provide such services to ESJPA,

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, ESJPA and Contractor (each a "party," or collectively, the "parties") agree as follows:

1. Contractor's Services.

Contractor shall perform the services described herein and otherwise as specified in **Exhibit A** hereto which is incorporated herein by this reference, under the supervision of ESJPA's Contract Manager. Contractor understands that ESJPA may desire Contractor to perform certain additional services related to the scope of services hereunder, and Contractor agrees to perform such additional services when requested by ESJPA in writing. All such additional services shall be performed as provided herein, unless otherwise provided by written amendment hereto, subject only to an adjustment reflecting the cost of such additional services and the time for performance.

2. Contractor's Personnel.

Contractor acknowledges that the personal services of Contractor's personnel are essential to the performance of Contractor's obligations hereunder, and that no substitution of Contractor's personnel so identified may be made without the prior written approval of ESJPA. Contractor shall not subcontract or assign any portion of the services provided hereunder without the prior written approval of ESJPA, except any subcontracted services identified in **Exhibit A**.

Contractor, and its agents and employees, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of ESJPA. By initialing this Agreement in the space provided immediately below, Contractor acknowledges that this Agreement is complete, that it does not create an employer-employee relationship between ESJPA and Contractor or any person performing services hereunder on behalf of

5. Work Product; Confidentiality.

Contractor understands and agrees that all documents, information and reports developed in the course of performing its obligations hereunder shall be the property of ESJPA. Contractor agrees to exert its best efforts in the production of such work product of this Agreement. Contractor may retain copies of materials collected or produced hereunder during the term hereof, but in the event of termination of this Agreement, Contractor shall promptly deliver any such materials to ESJPA without exception or reservation.

If, in the course of performing its obligations hereunder, Contractor comes into possession of information known or reasonably expected to be confidential information from any source, Contractor will respect and maintain such confidentiality, whether under state, federal or common law, and be solely liable to any injured person in the event of its wrongful distribution of such confidential material.

6. Nonassignability.

No assignment of the rights nor delegation of the duties of Contractor whether in whole or in part shall be valid unless specifically agreed to in writing by ESJPA.

7. Termination.

A. Either party may terminate this Agreement at any time in the event the other party defaults in performance, fails to perform services in a timely fashion, or otherwise fails to comply with the terms of this Agreement. Either party's default or failure to perform shall be excused if prevented by acts of God, labor disputes or strikes, or other forces beyond such party's control.

B. Either party may terminate this Agreement without cause or default after having given thirty (30) calendar days notice to the other party which indicates which services and/or expenses hereunder are suspended from the date of such notice and the date of termination. Upon such termination, Contractor shall be entitled to compensation for services not suspended and actually rendered and/or expenses allowed to the date of termination and for any unreimbursed expenses otherwise payable hereunder.

8. Attorney's Fees, Costs.

If any action at law or in equity is brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other relief to which that party may be entitled. This provision for the recovery of attorney's fees and costs shall be construed as applicable to the entire Agreement.

9. Indemnification and Insurance.

Contractor shall indemnify, defend and hold harmless ESJPA, its officers, directors, agents, employees and attorneys, from any and all claims, causes of action, damages and losses, whether in law or equity (collectively, "**Claim**") arising from or related to the services performed by Contractor under this Agreement or accruing or resulting to any and all

11. Miscellaneous Provisions.

A. Partial Invalidity.

If any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

B. Contractor's Qualifications.

Contractor covenants that it is competent to provide the services required hereunder and is licensed and qualified as necessary to perform such services in California and/or as provided herein. Contractor covenants that it will comply with all applicable federal, state and local laws affecting services provided hereunder.

C. Records and Audit.

Contractor shall maintain current and complete books and records relating to this Agreement, including, but not limited to, documents supporting all bids, income and expenditures. Books and records kept shall be original entry books with a general ledger itemizing all debits and credits for work performed hereunder. In addition, where applicable, Contractor shall maintain detailed payroll records including subsistence, travel and field expenses, and canceled checks, receipts and invoices for all such items. Contractor's documents, books and records shall be retained for at least five (5) years from the date of completion of this Agreement, and Contractor shall permit access to audit its books, accounts and records relating hereto, and such records of all business entities controlled by Contractor who participated in the performance of this Agreement. Any audit by ESJPA may be conducted on Contractor's premises, or at the option of ESJPA, Contractor shall provide all such records to ESJPA for such audit elsewhere. Contractor shall refund any moneys erroneously paid; if Contractor has erroneously billed for an amount exceeding five percent (5%) of the compensation paid hereunder, Contractor shall also be liable for the cost of audit in addition to any other penalty.

D. Nondiscrimination Clause.

During the performance of this Agreement, Contractor shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex or sexual orientation, ancestry, physical handicap, medical condition, marital status, or age (over 40).

E. Cooperation.

The parties shall cooperate with each other in the performance of their respective obligations hereunder. ESJPA's Contract Manager shall be Mary Pitto or such other person designated in writing by ESJPA. Contractor's representative for the purpose of any approvals or requests made hereunder shall be Greg Norton.

WHEREFORE, the parties hereto have executed this Agreement as of the date set forth above.

**CONTRACTOR:**

REGIONAL COUNCIL OF RURAL COUNTIES,  
A CALIFORNIA NONPROFIT CORPORATION

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

Greg Norton  
President and CEO

**ESJPA:**

RURAL COUNTIES' ENVIRONMENTAL  
SERVICES JOINT POWERS AUTHORITY, A  
JOINT POWERS AGENCY

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

Wendy Otto  
ESJPA Board Chair