

**SMITH RIVER RANCHERIA
PROFESSIONAL SERVICES CONTRACT**

Contract Number	
Contract Amount	
Fund	
Program	
Activity	
TERO Fee	Yes

The Smith River Rancheria (“SRR”), 140 Rowdy Creek Road, Smith River California 95567, and [Company Name], (“Contractor”) hereby enter into this agreement for professional services effective [DATE].

Recitals

1. The Smith River Rancheria is a federally recognized tribe [Description of project]
2. Contractor is an [Indian Owned Business].
3. The Tribal Administrator is the Project Manager for purposes of this Contract.

NOW, THEREFORE, the parties agree as follows:

ARTICLE 1. DUTIES AND RESPONSIBILITIES

1.01 Contractor will competently and in good faith provide those professional services set forth in Article 3. Contractor shall observe all policies, procedures and directives promulgated from time to time by SRR.

1.02 SRR will provide Contractor with the compensation and business expense reimbursement specified in Article 5 of this Contract.

1.03 Contractor shall report to, and receive direction from, the Project Manager.

1.04 Contractor has neither the right nor authority to contract on behalf of SRR without the Project Manager’s prior written consent.

ARTICLE 2. TERM OF CONTRACT

2.01 SRR will retain Contractor to [Project] as an Independent Contractor beginning [Date]and ending [Date]. Contractor accepts this engagement.

ARTICLE 3. PROFESSIONAL SERVICES

3.01 Nature of Services. Contractor shall *provide [Briefly describe project]*.

3.02 Scope of Services. The services to be performed by Contractor are as follows:

- (a)
- (b)
- (c)
- (d)
- (e)

3.03 Services Not To Be Performed.

(a) N/A

3.04 Limitations. Limitations on Contractor’s performance of services:

(a) N/A

3.05 Independent Contractor. Contractor is performing the services under this Contract as an independent contractor and not as an employee of SRR. Neither Contractor nor any of its employees are eligible to receive any of the rights or benefits otherwise available to SRR employees. Contractor shall be free from the direction and control of SRR over the means and manner of performing services under this Contract, subject only to the right of SRR to specify the desired results. Contractor shall be solely responsible for payment of all taxes, fees, and salaries due its employees as required by law or other agreement.

3.06 Subcontractors. All of the tasks and projects to be performed pursuant to this Contract shall be performed by the Contractor and its subcontractors. SRR may attach any reasonable condition or limitation to the employment of a subcontractor. Any services that are contracted out to subcontractors shall remain the sole responsibility of Contractor and shall be paid by Contractor.

ARTICLE 4. LICENSURE

4.01 If the professional services to be rendered by Contractor under this Contract require a professional license or certification, Contractor is responsible and required to maintain current licensing or certification as a condition of continued engagement.

4.02 Contractor will pay all licensing/certification fees and costs of any mandatory continuing education associated with maintaining the license or certification.

ARTICLE 5. COMPENSATION

5.01 For time actually spent rendering service, SRR will pay Contractor the following:

The maximum amount payable under this Contract is \$[AMOUNT]

5.02 In addition to the compensation specified in section 5.01, Contractor will be paid for actual reasonable expenses authorized by the Project Manager, including travel, meals and lodging; and when needed by Contractor and authorized in advance and in writing by the Project Manager, the cost of ancillary services to others, such as designers, draftsmen, modelmakers, or clerical help. Reimbursement of individual expenses in excess of \$1,000.00 will be made only if those expenses are approved by the Project Manager before being incurred, unless the Project Manger in his sole discretion elects to reimburse Contractor after the fact.

5.03 Each expenditure referred to in section 5.02 will be reimbursable only if Contractor furnishes to the Project Manager adequate records and other documentary evidence for the substantiation of each such expenditure.

5.04 Payment of all services and expenses will be made within thirty (30) days of presentation of monthly invoices.

ARTICLE 6. PROPERTY RIGHTS OF PARTIES

6.01 Royalties and Patents. Contractor shall pay all royalties and license fees. Contractor shall defend all suits or claims for infringement of any patent rights and shall save SRR harmless from loss on account thereof; except that SRR shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and Contractor has no reason to believe that the specified design, process, or product is an infringement. If, however, Contractor has reason to believe that any design, process or product specified is an infringement of a patent, Contractor shall promptly notify the Project Manager. Failure to give such notice shall make the Contractor responsible for resultant loss.

6.02 HUD Policy on Copyrights. HUD reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government Purposes:

(a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and

(b) Any rights of copyright to which a grantee, subgrantee or contractor purchases ownership with grant support.

6.03 Discovery or Invention. Any discovery or invention which arises or is developed in the course of or under this Contract by SRR, Contractor or any Subcontractor is expressly subject to HUD regulations, if any, pertaining to patent rights regarding such discovery or invention in effect at the time of the execution of this Contract.

6.04 Nondisclosure of Information. Contractor shall not disclose or appropriate for his/her own use, or for the use of any third party, at any time during or subsequent to the term of this Contract, any proprietary or confidential information of SRR or any of SRR's affiliates or subsidiaries of which Contractor has been or hereafter becomes informed, whether or not developed by Contractor, including, but not limited to, information pertaining to customer lists, services, methods, processes, prices, profits, contract terms or operating procedures except as required in connection with Contractor's performance of this Contract, a governmental authority, or other applicable law.

6.05 Work Product. All documents and other work product generated on behalf of SRR in connection with this Contract are the property of SRR.

ARTICLE 7. TERMINATION OF CONTRACT

7.01 Notwithstanding any other provision of this Contract, Contractor may terminate this Contract at any time by giving thirty (30) days' written notice to SRR.

7.02 SRR may terminate this contract in whole, or in part, whenever it determines that such termination is in the best interest of SRR. Any such termination shall be effected by delivery to Contractor of a Notice of Termination specifying the extent to which the performance of the work under the Contract is terminated, and the date upon which such termination becomes effective.

7.03 If either party defaults in the performance of this Contract or materially breaches any of its provisions, the non-breaching party may terminate this Contract by giving written notification to the breaching party. Termination will take effect immediately upon receipt of the notice by the breaching party or five (5) days after mailing of the notice, whichever occurs first. For the purposes of this paragraph, material breach of this Contract includes, but is not limited to, the following:

(a) SRR's failure to pay Contractor any compensation due within thirty (30) days after written demand for payment.

(b) Contractor's failure to complete the services specified in Article 3.

ARTICLE 8. INDIAN SELF-DETERMINATION & EDUCATION ASSISTANCE ACT

8.01 The work to be performed under this Contract is on a project subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C.A. 450e(b)) ("Indian Act"). Section 7(b) requires hat to the greatest extent feasible:

Initial

Date

(a) Preferences and opportunities for training and employment shall be given to Indians; and

(b) Preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

8.02 The parties to this Contract shall comply with the provision of section 7(b) of the Indian Act.

8.03 In connection with this Contract, Contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indians.

8.04 Contractor shall include this section 7(b) clause (8.01-8.03) in every subcontract in connection with the project, and shall, at the direction of SRR, take appropriate action pursuant to the subcontract upon a finding by SRR or the U.S. Department of Housing and Urban Development that the subcontractor has violated the section 7(b) clause of the Indian Act.

ARTICLE 9. COMPLIANCE WITH FEDERAL LAWS

As applicable:

9.01 Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 C.F.R. chapter 60).

9.02 Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 C.F.R. Part 3).

9.03 Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

9.04 Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

9.05 Contractor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. part 15).

9.06 Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. (Pub. L. 94-163, 89 Stat. 871).

ARTICLE 10. GENERAL PROVISIONS

10.01 Notice. Any notices to be given under the Contract by either party to the other will be in writing and may be transmitted by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices will be addressed to the parties at the addresses appearing in the introductory paragraph of this Contract, but each party may change that address by written notice in accordance with this section. Notices delivered personally will be deemed communicated as of the date of actual receipt; mailed notices will be deemed upon five (5) calendar days after the date of mailing.

10.02 Assignment Prohibited. This Contract is for the personal services of Contractor. Contractor may not assign this Contract, Contractor's right to moneys becoming due under this Contract, or Contractor's duties under this Contract to any other person or entity without the written consent of SRR. Any attempt at any such unauthorized assignment shall be void.

10.03 Indemnification. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless SRR, and its officers, employees, and agents ("SRR indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable attorney's fees and costs of litigation ("claims"), arising out of the Contractor's performance of its obligations under this Contract or out of the operations conducted by Contractor, including SRR's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of SRR. In the event SRR indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this Contract, Contractor shall provide a defense to the SRR indemnitee or at SRR's option reimburse SRR indemnitees their costs of defense, including reasonable attorney's fees, incurred in defense of such claims.

10.04 Attorney's Fees and Costs. If any legal action or proceeding is necessary to enforce or interpret the terms of this Contract, the prevailing party will be entitled to reasonable attorneys' fees, costs, and expenses in addition to any other relief to which that party may be entitled. This provision will be construed as applicable to the entire contract.

10.05 Access to Records. The Smith River Rancheria and any subgrantee, HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making an audit, examination, excerpt or

transcription. Contractor shall retain all such records for a period of three (3) years after final payment under this Contract.

10.06 Reporting Requirements. This Contract is subject to HUD reporting requirements as set forth in 24 C.F.R. 85.40.

10.07 Entire Agreement. This instrument contains the entire agreement of the parties with respect to the subject matter hereof and there are no other promised representations or warranties affecting it. This Contract supersedes any and all other agreements, either oral or in writing, between SRR and Contractor with respect to the engagement of SRR and Contractor and contains all of the covenants and agreements between the parties with respect to that engagement in any manner whatsoever. Each party to this Contract acknowledges that no representation, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party that are not embodied in the Contract, and that no other agreement, statement, or promise not contained in this Contract will be valid or binding on either party.

10.08 Modification. Any modification of this Contract will be effective only if it is in writing and signed by both parties.

10.09 Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Contract by the other party will not be deemed a waiver of that term, covenant, or condition, nor will any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

10.10 Severability. If any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Contract will nevertheless continue in full force without being impaired or invalidated in any way.

10.11 Tribal Court Jurisdiction. By entering into this Contract, Contractor expressly consents to the jurisdiction of the Smith River Rancheria Tribal Court. Any controversy or claim arising out of, or relating to, this Contract shall be heard and adjudicated by the SRR Tribal Court in accordance with all applicable tribal laws, rules, regulations and policies.

10.12 Time is of Essence. Time is of the essence of this Contract and each and every one of its provisions.

10.13 Signatures. This Contract is entered into by the parties on the date set out below as represented by the signatures affixed hereto. Those person signing on behalf of the respective parties represent and attest that they are authorized to sign and to bind their principles.

[This space intentionally left blank]

Executed on the dates indicated below at Del Norte County, California.

SMITH RIVER RANCHERIA
140 Rowdy Creek Road
Smith River, CA 95567

By: _____ Date: _____
Russ Crabtree, Tribal Administrator

By: _____ Date: _____
Kara Brundin-Miller, Tribal Chairperson

CONTRACTOR

By: _____ Date: _____

Name: _____

Title: _____

Attachments

A: Description of Work

Initial

Date