

# Neighborly Pest Management, Inc.

## Glassy-Winged Sharpshooter Delimitation Services

### AGREEMENT FOR SERVICES #9438

**THIS AGREEMENT**, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Neighborly Pest Management, Inc., a corporation duly qualified to conduct business in the State of California, whose principal place of business is 324 Riverside Avenue, Roseville, California 95678 (hereinafter referred to as "Contractor").

### RECITALS

**WHEREAS**, County has determined that it is necessary to obtain a contractor to assist in providing glassy-winged sharpshooter delimitation services for its Department of Agriculture;

**WHEREAS**, the County of Solano entered into an agreement with the Contractor on July 1, 2024, to provide the glassy-winged sharpshooter insecticide treatments in the affected areas;

**WHEREAS**, the County upon the passing of a resolution adopted by its Board of Directors has the legal authority to piggyback onto an agreement that was awarded utilizing a competitive bidding process substantially the same as that utilized by the County, pursuant to Section 3.4.4(b), Policy C-17;

**WHEREAS**, the County desires to piggyback onto the above referenced agreement between the Contractor and the County of Solano for utilization of the same or similar services for the delimitation of glassy-winged sharpshooters in the affected areas of El Dorado County;

**WHEREAS**, Contractor has represented to County that it is specially trained, experienced, is an expert, and competent to perform the special services described in ARTICLE I Scope of Work; that it is an independent and bona fide business operations, advertises and holds itself as such, is in possession of a valid business license, and is customarily engaged in an independently established business that provides similar services to others; and County relies upon those representations;

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable state and local laws;

**WHEREAS**, County has determined that the provision of such services provided by Contractor are in the public's best interest and that these services are more economically and feasibly performed by outside independent contractor and the work requires specialty skills and qualifications not expressly identified in County classifications, in accordance with

El Dorado County Ordinance Code, Section 3.13.030(b), by El Dorado County Charter, Section 210(b)(6) and/or Government Code Section 31000;

**NOW, THEREFORE,** County and Contractor mutually agree as follows:

#### **ARTICLE I**

**Scope of Work:** Contractor is engaged in the business of doing the services and tasks required under this Agreement, including those services and tasks that are identified in Exhibit A, marked "Scope of Work," incorporated herein and made by reference a part hereof, or as identified in individual Task Orders, as applicable, and those services and tasks that are reasonably necessary for the completion of the work identified in the Scope of Work or in individual Task Orders.

Contractor agrees to furnish, at Contractor's own cost and expense, all personnel, equipment, tools, vehicles, materials, and services necessary to perform the services and tasks required under this Agreement, including those services and tasks that are identified in Exhibit A, and those services and tasks that are reasonably necessary for the completion of the work identified in the Scope of Work, or in any individual Task Orders, as applicable.

For each work assignment, the specific services for each assignment shall be determined at a meeting, by email, or telephone conference between County's Contract Administrator and Contractor. For each work assignment, Contractor shall provide a written quote to County's Contract Administrator. Upon receipt and approval of each quote, County's Contract Administrator will issue a separate written Task Order to Contractor for each work assignment identifying the specific site where the work will be performed, a description of the work or other services to be performed, any required deliverables, including reports or other documents to be supplied in connection with the work assignment, a specific date by which the work shall be completed, and a not-to-exceed cost to complete the work. Contractor shall not commence work until receiving the written Task Order. No payment will be made for any work performed prior to the issuance of the written Task Order. No payment will be made for any work performed prior to approval and full execution of the Task Order or beyond the earlier of the expiration date of the Task Order or expiration of the underlying Agreement, and no payment will be made for amounts in excess of the not-to-exceed amount of the Task Order.

The period of performance for Task Orders shall be in accordance with dates specified in each Task Order. No payment will be made for any work performed before or after the period of performance in the Task Order, unless County's Contract Administrator and Contractor amend the Task Order. No Task Order will be written which exceeds the total not-to-exceed dollar amount of this Agreement.

If a submittal deliverable or Task Order deliverable is required to be an electronic file, Contractor shall produce the file using Microsoft (MS) Office 365 applications (specifically, MS Word, MS Project, and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). All deliverables shall be submitted in language, format, and design that are compatible with and completely transferable to County's computer and that are

acceptable to County's Contract Administrator. Newer versions of software may be used, and other types of software used for analytical purposes may be authorized if approved in advance of the submittal by County's Contract Administrator. Contractor shall submit all deliverables to County's Contract Administrator in accordance with completion time schedules identified in the individual Task Orders issued pursuant to this Agreement. Failure to submit the required deliverables in the format required may be grounds for termination of the Agreement, as provided in ARTICLE XIV, Default, Termination, and Cancellation, herein.

Contractor shall perform the services and tasks required under this Agreement in a safe, professional, skillful, and workmanlike manner. Contractor is responsible for ensuring that its employees perform the services and tasks required under this Agreement accordingly.

Contractor acknowledges that the work performed must meet the approval of County, and therefore County reserves the right to monitor the work to ensure its satisfactory completion.

## **ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire one (1) year thereafter.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, including all of the deliverables described in individual Task Orders issued pursuant to this Agreement, and including the progress reports required by ARTICLE V, Progress Reports, below, County agrees to pay Contractor upon the satisfactory completion and County's acceptance of work, in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices identifying the services rendered.

For the purposes of this Agreement, the billing rate shall be:

- \$205 per residential foliar insecticide application
- \$5.50 per inch of trunk diameter or per foot of shrub height.

The total amount of this Agreement shall not exceed \$385,000, inclusive of all Task Orders and amended Task Orders, costs, taxes, and expenses. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Agreement through Task Orders.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Contractor shall attach copies of any progress reports required under the provisions of ARTICLE V, Progress Reports, herein, that relate to the services being billed, as backup documentation to any invoices submitted for payment under the terms of this Agreement. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices.

Invoices shall be mailed to County at the following address:

County of El Dorado  
Department of Agriculture  
311 Fair Lane  
Placerville, California 95667

Attn.: LeeAnne Mila  
Agricultural Commissioner  
Sealer of Weights and Measures

or to such other location as County directs.

In the event that Contractor fails to deliver, in the format specified, the deliverables and progress reports required by this Agreement, County at its sole option may delay the payment for the period of time of the delay, cease all payments until such time as the required deliverables or progress reports are received, or proceed as set forth below in ARTICLE XIV, Default, Termination, and Cancellation, herein.

#### **ARTICLE IV**

**Taxes:** Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

#### **ARTICLE V**

**Progress Reports:** Upon issuance of a Task Order, Contractor shall submit written progress reports to County's Contract Administrator, or designee, at intervals that are commensurate with the requirements of the items of work and tasks being performed and based upon a mutually agreeable schedule. At a minimum, Contractor shall submit progress reports once per month. Contractor shall prepare the reports in a sufficiently detailed manner for County's Contract Administrator, or designee, to determine if Contractor is performing to expectations and is on schedule to provide the services and deliverables described in the Scope of Work, to provide communication of interim findings, and to afford occasions for airing difficulties or special circumstances encountered so that remedies can be developed. County shall review the report to ensure that Contractor's services and deliverables adhere to current County requirements applicable to the project as determined by County's Contract Administrator, or designee, and Contractor shall modify its work if the County's Contract Administrator, or designee, determined it is necessary to meet current County requirements applicable to the project. Separate detail shall be provided for each ongoing Task Order. Contractor shall include in a progress report the total number of hours worked by Contractor; a description of the tasks and work performed, including a description of any deliverables submitted during the reporting period; and the anticipated tasks, work, and deliverables proposed for the subsequent reporting period. Any invoices submitted by Contractor for payment under the terms of this Agreement shall include copies of the progress reports that relate to the services being billed on those invoices.

## **ARTICLE VI**

**Ownership of Data:** Upon completion or earlier termination of all services under this Agreement, or upon the completion or earlier termination of services provided in accordance with individual Task Orders issued pursuant to this Agreement, if applicable, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos, and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in County without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to County. Copies may be made for Contractor's records but shall not be furnished to others without prior written authorization from County's Contract Administrator. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by County. Contractor shall furnish County all necessary copies of data, including data stored in electronic format, needed to complete the review and approval process of the services and deliverables provided under this Agreement.

## **ARTICLE VII**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto. There shall be no change in Contractor's Project Manager, which shall be established at the issuance of individual Task Orders, without prior written approval by County's Contract Administrator.

## **ARTICLE VIII**

**Contractor to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further understood that this Agreement does not create an exclusive relationship between County and Contractor, and Contractor may perform similar work or services for others. However, Contractor shall not enter into any agreement with any other party or provide any information in any manner to any other party, that would conflict with Contractor's responsibilities or hinder Contractor's performance of services hereunder, unless County's Contract Administrator, in writing, authorizes that agreement or sharing of information.

## **ARTICLE IX**

**Confidentiality:** Contractor shall maintain the confidentiality and privileged nature of all records, including billing records, together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Contractor, and all Contractor's staff, employees, and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Agricultural Department for the purpose of, and in the performance of, this Agreement. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

## **ARTICLE X**

**Assignment and Delegation:** Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

## **ARTICLE XI**

**Independent Contractor:** The parties intend that an independent contractor relationship will be created by this contract. Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, agents, affiliates, and subconsultants, if any are authorized herein, as they relate to the services or work to be performed under this Agreement during the course and scope of their employment by Contractor. Those persons will be entirely and exclusively under the direction, supervision, and control of Contractor.

County may designate the tasks to be performed and the results to be accomplished under this Agreement, provide information concerning the work or services, approve or disapprove the final work product and/or services provided, and set deadlines for the completion of the work or services, but County will not control or direct the manner, means, methods, or sequence in which Contractor performs the work or services for accomplishing the results. Contractor understands and agrees that Contractor lacks the authority to bind County or incur any obligations on behalf of County.

Contractor, including any subconsultant or employees of Contractor, shall not receive, nor be eligible for, any benefits County provides for its employees, including, at a minimum, vacation pay, paid holidays, life insurance, health insurance, social security, disability insurance, pension, or 457 plans. Contractor shall not receive, nor be eligible for, workers' compensation, including medical and indemnity payments. County is not responsible for withholding, and shall not withhold, Federal Income Contribution Act amounts or taxes of any kind from any payments which it owes Contractor. Contractor shall not be subject to the work schedules or vacation periods that apply to County employees.

Contractor shall be solely responsible for paying its employees, and for withholding Federal Income Contribution Act amounts and other taxes, workers' compensation, unemployment compensation, medical insurance, life insurance, or any other benefit that Contractor provides for its employees.

Contractor acknowledges that it has no authority to bind the County or incur any obligations on behalf of the County with regard to any matter and shall not make any agreements or representations on the County's behalf.

## **ARTICLE XII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

### **ARTICLE XIII**

**Audit by California State Auditor:** Contractor acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code § 8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the Agreement, all books, records, and documentation necessary to demonstrate performance under the Agreement.

### **ARTICLE XIV**

#### **Default, Termination, and Cancellation:**

- A. 1. Termination by Default: If either party becomes aware of an event of default, that party shall give written notice of said default to the party in default (notice) that shall state the following:
- a. The alleged default and the applicable Agreement provision, and
  - b. That the party in default has ten (10) days upon receiving the notice to cure the default (Time to Cure).

If the party in default does not cure the default within ten (10) days of the Time to Cure, then such party shall be in default and the party giving notice may terminate the Agreement, or any Task Order issued under this Agreement, by issuing a Notice of Termination. The party giving notice may extend the Time to Cure at their discretion. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

2. If County terminates this Agreement, in whole or in part, for default:
  - a. County reserves the right to procure the goods or services, or both, similar to those terminated, from other sources and Contractor shall be liable to County for any excess costs for those goods or services. County may deduct from any

payment due, or that may thereafter become due to Contractor, the excess costs to procure from an alternate source.

- b. County shall pay Contractor the sum due to Contractor under this Agreement prior to termination, unless the cost of completion to County exceeds the funds remaining in the Agreement. In which case the overage shall be deducted from any sum due Contractor under this Agreement and the balance, if any, shall be paid to Contractor upon demand.
- c. County may require Contractor to transfer title and deliver to County any completed work under the Agreement.

3. The following shall be events of default under this Agreement:

- a. Failure by either party to perform in a timely and satisfactory manner any or all of its obligations under this Agreement.
- b. A representation or warranty made by Contractor in this Agreement proves to have been false or misleading in any respect.
- c. Contractor fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, unless County agrees, in writing, to an extension of the time to perform before that time period expires.
- d. A violation of ARTICLE XXI, Conflict of Interest.

B. Bankruptcy: County may terminate this Agreement immediately in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.

C. Ceasing Performance: County may terminate this Agreement immediately in the event Contractor ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.

D. Termination or Cancellation without Cause: County may terminate this Agreement or any Task Order issued pursuant to this Agreement, in whole or in part, for convenience upon thirty (30) calendar days' written Notice of Termination. If such termination is effected, County will pay for satisfactory services rendered before the effective date of termination, as set forth in the Notice of Termination provided to Contractor, and for any other services that County agrees, in writing, to be necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Agreement. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise.

## **ARTICLE XV**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado  
Department of Agriculture  
311 Fair Lane  
Placerville, California 95667

Attn.: LeeAnne Mila  
Agricultural Commissioner  
Sealer of Weights and Measures

or to such other location as County directs.

Notices to Contractor shall be addressed as follows:

Neighborly Pest Management, Inc.  
324 Riverside Avenue  
Roseville, California 95678

Attn.: Sean Bradley, Secretary

or to such other location as Contractor directs.

#### **ARTICLE XVI**

**Change of Address:** In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing as provided in ARTICLE XV, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

#### **ARTICLE XVII**

**Indemnity:** To the fullest extent permitted by law, Contractor shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the acts or omissions of Contractor or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the active negligence, sole negligence, or willful acts of the County, its officers and employees, or as expressly prescribed by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in Civil Code section 2778.

With a copy to:

County of El Dorado  
Chief Administrative Office  
Procurement and Contracts Division  
330 Fair Lane  
Placerville, California 95667

Attn.: Michele Weimer  
Procurement and Contracts Manager

The insurance obligations of Contractor are separate, independent obligations under the Agreement, and the provisions of this defense and indemnity are not intended to modify nor should they be construed as modifying or in any way limiting the insurance obligations set forth in the Agreement.

Nothing herein shall be construed to seek indemnity in excess of that permitted by Civil Code section 2782, et seq. In the event any portion of this Article is found invalid, the Parties agree that this Article shall survive and be interpreted consistent with the provisions of Civil Code section 2782, et seq.

#### **ARTICLE XVIII**

**Insurance:** Contractor shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit. County, including, without limitation, its officers, officials, employees, and volunteers shall be named as an additional insured on ISO form CG 2010 1185, or its equivalent.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by Contractor in performance of the Agreement.
- D. In the event Contractor is a licensed professional or professional consultant and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Contractor shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County's Risk Management Division or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Contractor agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall

be performed prior to the giving of such approval. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

- H. The certificate of insurance must include the following provisions stating that:
1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County; and
  2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Contractor's insurance coverage shall be primary insurance in respect to County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions in respect to County, its officers, officials, employees, and volunteers; or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers, and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department, either independently or in consultation with County's Risk Management Division as essential for protection of County.

## **ARTICLE XIX**

**Force Majeure:** Neither party will be liable for any delay, failure to perform, or omission under this Agreement that is due to any cause that it is beyond its control, not due to its own negligence, and cannot be overcome by the exercise of due diligence. In that event, the affected party will:

1. Promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) that is beyond its control.
2. Once the cause(s) has ceased, provide written notice to the other party and immediately resume its performance under this Agreement.

For purposes of this Article, "cause that is beyond its control" includes labor disturbances, riots, fires, earthquakes, floods, storms, lightning, epidemics, war, disorders, hostilities, expropriation or confiscation of properties, failure of and delays by carriers, interference by civil or military authorities, whether legal or de facto, and whether purporting to act under some constitution, decree, or law, or otherwise, or acts of God.

## **ARTICLE XX**

**Waiver:** No failure on the part of the parties to exercise any rights under this Agreement, and no course of dealing with respect to any right hereunder, shall operate as a waiver of that right, nor shall any single or partial exercise of any right preclude the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any other remedies provided by law.

## **ARTICLE XXI**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and the Political Reform Act of 1974 (Section 87100 et seq.), relating to conflict of interest of public officers and employees. Individuals who are working for Contractor and performing work for County and who are considered to be consultant within the meaning of Title 2, California Code of Regulations, Section 18700.3, as it now reads or may thereafter be amended, are required to file a statement of economic interest in accordance with County's Conflict of Interest Code. County's Contract Administrator shall at the time this Agreement is executed make an initial determination whether or not the individuals who will provide services or perform work pursuant to this Agreement are consultants within the meaning of the Political Reform Act and County's Conflict of Interest Code. Statements of economic interests are public records subject to disclosure under the California Public Records Act.

Contractor covenants that during the term of this Agreement neither it, or any officer or employee of Contractor, has or shall acquire any interest, directly or indirectly, in any of the following:

1. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.
2. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.
3. Any officer or employee of County that are involved in this Agreement.

If Contractor becomes aware of a conflict of interest related to this Agreement, Contractor shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by giving written notice of termination specified in ARTICLE XIV, Default, Termination, or Cancellation.

## **ARTICLE XXII**

### **Nondiscrimination:**

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including, at a minimum, the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender identity, gender expression, sexual orientation, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 11000 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Subchapter 5 of Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature executing this Agreement shall provide any certifications necessary under the federal laws, the laws of the State of California, including, at a minimum, Government Code Sections 12990 and Title 2, California Code of Regulations, Section 11102.

## **ARTICLE XXIII**

**California Residency (Form 590):** If Contractor is a California resident, Contractor must file a State of California Form 590, certifying its California residency or, in the case of a limited liability company or corporation, certifying that it has a permanent place of business in California. Contractor will be required to submit a Form 590 prior to execution of this Agreement, or County shall withhold seven (7) percent of each payment made to Contractor during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

## **ARTICLE XXIV**

**County Payee Data Record Form:** All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal Revenue

Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

#### **ARTICLE XXV**

**Business License:** County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Contractor warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

#### **ARTICLE XXVI**

**Licenses:** Contractor hereby represents and warrants that Contractor and any of its subconsultants employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor shall possess a Pesticide Control Business License, as well as a Qualified Applicator Certification, as required by the categories and types of work to be performed under this Agreement. Contractor shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

#### **ARTICLE XXVII**

**California Forum and Law:** Any dispute resolution action arising out of this Agreement, including, at a minimum, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

#### **ARTICLE XXVIII**

**Contractor's Project Manager:** Contractor designates Sean Bradley, Corporate Secretary, as its Project Manager for this Agreement. Contractor's Project Manager, or County-approved designee, shall be accessible to County's Contract Administrator, or designee, during normal County working hours and shall respond within twenty-four (24) hours to County inquiries or requests. Contractor's Project Manager shall be responsible for all matters related to Contractor's personnel, operations, and any subcontractors authorized under this Agreement including, at a minimum, (1) assigning qualified personnel to perform the required work and to prepare the required deliverable required by the individual Task Orders issued pursuant to this Agreement; and (2) reviewing, monitoring, training, and directing Contractor's personnel and any subcontractors authorized herein.

#### **ARTICLE XXIX**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is LeeAnne Mila, Agricultural Commissioner, Sealer of Weights and Measures, Department of Agriculture, or successor.

### **ARTICLE XXX**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.

### **ARTICLE XXXI**

**Electronic Signatures:** Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement, are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

### **ARTICLE XXXII**

**Partial Invalidity:** If any provision, sentence, or phrase of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, sentences, and phrases will continue in full force and effect without being impaired or invalidated in any way.

### **ARTICLE XXXIII**

**No Third-Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

### **ARTICLE XXXIV**

**Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

### **ARTICLE XXXV**

**Compliance with Federal Provisions:** Contractor shall remain in compliance with all applicable federal provisions, including, at a minimum, those described in Exhibit B, "Federal Terms and Conditions", incorporated herein and made by reference a part hereof.

### **ARTICLE XXXVI**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates indicated below.

**-- COUNTY OF EL DORADO --**

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

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

Board of Supervisors  
"County"

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

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

**-- NEIGHBORLY PEST MANAGEMENT, INC. --**

By: \_\_\_\_\_  
Jim Steed  
President  
"Contractor"

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

By: \_\_\_\_\_  
Sean Bradley  
Corporate Secretary

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

# Neighborly Pest Management, Inc.

## Exhibit A

### Scope of Work

Contractor shall be responsible for the following duties concerning Glassy-Winged Sharpshooter Regulatory Area Insecticide Treatments within the California Department of Food and Agriculture's declared infested area in El Dorado Hills, California:

#### Foliar Insecticide Treatment Specifications

- Foliar spray treatments in residential front and back yards and other nearby sites including roadside landscaping, parks, school grounds, and similar settings to glassy-winged sharpshooter (GWSS) host plants within one-hundred fifty (150) meters of confirmed GWSS locations.
- Spray GWSS host plants thoroughly for good coverage including the underside of leaves.
- Treat no more than fifteen (15) acres a day.
- Applications are only to be made when rain is not predicted for the next twenty-four (24) hours.
- Tempo SC Ultra and Merit products are not to be applied or allowed to drift onto blooming GWSS host vegetation or plants which bees are actively foraging on.
- Applications must be in compliance with all other label and regulatory requirements.
- Products to be used: Tempo SC Ultra (EPA Reg. No. 432-4363) at a labeled rate of 1.5 to 5.4 oz per 100 gallons, Atlus (EPA Reg. No. 432-1575) at a labeled rate of 7.0-10.5 fl. Oz. per 100 gallons, and/or Merit 2F (EPA Reg. 432-1312) at a labeled rate of 1.5 fl. Oz. per 100 gallons of water, 75 WP (EPA Reg. No. 432-1314) at a labeled rate of 3 Tbsp. + 1 tsp. per 100 gallons of water or 75 WSP (EPA Reg. No. 432-1318) at a labeled rate of 1.6 fl. Oz. per 300 gallons of water depending on GWSS activity at target parcels. Products shall be supplied by Contractor.

#### Soil Insecticide Injection Treatment Specifications

- Soil injection treatments in residential front and back yards and other nearby sites including roadside landscaping, parks, school grounds, and similar settings to GWSS host plants within one-hundred fifty (150) meters of confirmed GWSS locations.
- Minimize exposure of Merit 2F to bees and other insect pollinators when they are foraging on pollinator attractive plants around the application site.
- Treat no more than fifteen (15) acres a day.
- No applications made to vegetables or turf.

- Applications must be in compliance with all other label and regulatory requirements.
- Products to be used: Merit 2F (EPA Reg. No. 432-1312) at a labeled rate of 0.1-0.2 fl. Oz. per inch of trunk diameter or per foot of shrub height and/or CoreTect (EPA Reg. No. 432-1457) at a labeled rate of 2-3 tablets per inch of trunk diameter or per foot of shrub height.

#### Additional Responsibilities

- Maintain a current pest control business license with the California Department of Pesticide Regulation and registration with the El Dorado County Agricultural Commissioner.
- Maintain a current California Department of Pesticide Regulation issued Qualified Applicator License with categories A, B, C.
- Provide insecticide treatments to only those properties approved by County's Department of Agriculture staff. Provide forty-eight (48) hour advanced treatment notification and treatment completion notices to properties in a form approved by the County's Department of Agriculture.
- Allow the California Department of Food and Agriculture staff to collect pesticide tank samples as requested.
- Experience with regulatory pest control with state or local governments for conducting pest control treatments for the purpose of eradication and/or abatement preferred.
- Capacity to conduct soil injection insecticide treatments and/or foliar insecticide treatments at up to fifty (50) properties per day per fiscal year (July-June).
- Ability to respond on a priority basis (within two [2] days) for spot treatments to individual properties.
- No enforcement actions for pesticide use violations issue by a county agricultural commissioner within the past two (2) years.

# Neighborly Pest Management, Inc.

## Exhibit B

### Federal Terms and Conditions

Contractor agrees to comply with all applicable requirements of all Federal laws, executive orders, regulations, and policies governing this program, including, at a minimum, 2 CFR 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. For-profit organizations will be subject to 48 CFR Subpart 31. Contractor is responsible for identifying the federal regulations appropriate to their organization, consistently applying cost principles and ensuring compliance with all applicable federal regulations.

#### 1. Civil Rights

Contractor must comply with civil rights and nondiscrimination standards pursuant to the following:

- A. Civil Rights Act, 42 USC 2000, as implemented at 28 CFR Part 42;
- B. Age Discrimination Act, 42 USC 6101, as implemented at 45 CFR Part 90;
- C. Age Discrimination in Employment Act. 29 USC 621, as implemented at 29 CFR Part 1625;
- D. Title IX of the Education Amendments of 1972, 20 USC 1681, as implemented at 45 CFR Part 86;
- E. Section 504 of the Rehabilitation Act, 29 USC 791, as implemented at 28 CFR Part 41;
- F. Executive Order (EO) 11246; and
- G. Americans with Disabilities Act, (PL 101-366).

#### 2. Labor Standards

Contractor must comply with labor standards pursuant to the following:

- A. Fair Labor Standards Act, 29 USC 207, as implemented at 29 CFR Part 500-899;
- B. Davis-Bacon Act, 40 USC 3141-3148, as implemented at 29 CFR Parts 1, 3, 5, and 7; and
- C. Contract Work Hours and Safety Standards Act, 40 USC 3701, as implemented at 29 CFR Part 5.

#### 3. Environmental Standards

Contractor must comply with environmental standards pursuant to the following:

- A. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (PL 91-190) and EO 11514 as implemented at 7 CFR Part 1b;
- B. Notification of violating facilities pursuant to EO 11738;
- C. Protection of wetlands pursuant to EO 11990;
- D. Evaluation of flood hazards in floodplains in accordance with EO 11988;
- E. Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 USC §§1451 et seq.);
- F. Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176 (c) of the Clean Air Act of 1955, as amended (42 USC §§7401 et seq.);

- G. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (PL 93-523); and,
- H. Protection of endangered species under the Endangered Species Act of 1973, as amended (PL 93-205).

**4. Drug-Free Environment**

Contractor must comply with drug-free environment standards pursuant to §5151-5610 of the Drug-Free Workplace Act of 1988, as implemented by 2 CFR 421.

**5. Restrictions on Lobbying and Political Activities**

Contractor must comply with lobbying restriction standards pursuant to the Limitations on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions, 31 USC 1352, as implemented at 2 CFR 418.

**6. Officials Not to Benefit**

Contractor must ensure that no member of Congress be admitted to any share or part of this Agreement or to any benefit arising from it, in accordance with 41 USC 22.

**7. Trafficking in Persons**

Contractor must comply with the provisions in 2 CFR Part 175, prohibiting trafficking in persons.

**8. Intergovernmental Review**

Contractor must comply with intergovernmental review standards pursuant to the following:

- A. Executive Order 12372, as implemented at 2 CFR 415; and
- B. The Intergovernmental Cooperation Act of 1968, 31 USC 6501.

**9. Confidentiality**

Contractor must comply with confidentiality standards pursuant to the following:

- A. Freedom of Information Act, 5 USC 552, as implemented at 7 CFR Part 1; and
- B. Privacy Act, 5 USC 552 (a).

**10. Conservation in Procurement**

Contractor must comply with procurement standards pursuant to the Resource Conservation and Recovery Act, 42 USC 6962 and EO 12873, as implemented at 40 CFR Part 247.

**11. Debarment, Suspension, Criminal or Civil Convictions**

Contractor and its principals must comply with debarment and suspension standards pursuant to the EO 12549, as implemented at 2 CFR 180 and 2 CFR 417.

Contractor must provide immediate written notice to CDFA if at any time it learns that this certification was erroneous when made or has become erroneous by reason of changed circumstances and must require recipients of lower-tier covered transactions under this Agreement to similarly certify pursuant to EO 12549, as implemented by 2 CFR 180 and 2 CFR 417.

See [www.sam.gov](http://www.sam.gov) to determine debarment and suspension status.

## **12. Crimes and Prohibited Activities**

Contractor must comply with crimes and prohibited activities standards pursuant to the following:

- A. Anti-Kickback (Copeland) Act, as implemented at 29 CFR Part 3.1;
- B. False Claims Act, 31 USC 3729; and
- C. Program Fraud Civil Remedies Act, 31 USC 3801-3812.

## **13. Biosafety in Laboratories**

Contractor must comply with laboratory biosafety standards pursuant to the following the Biosafety in Microbiological and Biomedical Laboratories, published jointly by the Centers for Disease Control and the National Institutes of Health.

## **14. Conflicts of Interest**

Contractor must comply with the conflict of interest standards pursuant to 2 CFR 400.2.

## **15. Inventions, Patents, Copyrights and Project Results**

A. Contractor must comply with invention and patent standards pursuant to the following:

- 1. Patent Rights in Inventions Made with Federal Assistance, 35 USC 202-204, as implemented at 37 CFR Part 401 (Bayh-Dole Act and the Technology Transfer Commercialization Act of 2000) to ensure that inventions made are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery.
- 2. The Plant Variety Protection Act, 7 USC 2321 et seq.

B. Contractor may retain title to any invention conceived of or first actually reduced to practice using Federal funds provided Contractor does the following:

- 1. Reports all subject inventions to CDFA;
- 2. Makes efforts to commercialize the subject invention through patent or licensing;
- 3. Formally acknowledges the Federal government's support in all patents that arise from the subject invention; and
- 4. Formally grants the Federal government and CDFA a limited use license to the subject invention.

C. Contractor may copyright any publications, data, or other copyrightable works developed using Federal funds provided it provides the Federal government and CDFA a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use the material, and agrees that the Federal government and CDFA may do so in cooperation with other public agencies.

D. Contractor agrees that the results of this project may be published by the Federal government, CDFA or appropriate contractors or cooperators as mutually agreed.

## **16. Care and Use of Laboratory Animals**

Contractor must comply with the care and use of laboratory animal standards pursuant to the following:

- A. Animal Welfare Act, 7 USC 2131, as implemented at 9 CFR, Sub Chapter A, Parts 1-4; and
- B. Marine Mammal Protection Act, 16 USC 1361-1407.

## **17. Fly America Act**

Contractor must comply with the Fly America Act (49 USC 40118) as implemented at 41 CFR 301-10.131 to 301-10.143.

## **18. Motor Vehicle Safety**

Contractor must comply with seat belt use standards pursuant to the following:

- A. Highway Safety Act of 1966 as amended (23 USC 402-403);
- B. Occupational Safety and Health Act of 1970 as amended (29 USC 668);
- C. Federal Property and Administrative Services Act of 1949 as amended (40 USC §101 et seq.)
- D. Increasing Seat Belt Use in the United States (EO 13043).
- E. Federal Leadership on Reducing Text Messaging While Driving (EO 13513).

## **19. Records Retention and Accessibility**

Contractor must comply with the procedures and requirements regarding record retention and accessibility as contained in 2 CFR 200.333 - 200.337.

## **20. All Other Federal Laws**

Contractor must comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.