RESOLUTION - ACTION REQUESTED 2021-247

MEETING: May 4, 2021

TO: The Board of Supervisors

FROM: Steve Dahlem, County Counsel

RE: Approve a Three Year Contract Between Mariposa County and Knowledge Saves Lives Inc.

RECOMMENDATION AND JUSTIFICATION:
Approve a Three Year Agreement with Knowledge Saves Lives, Inc. for Consulting and Training Services in Active Threat Scenario for All County Employees for an Amount not to Exceed $22,780 Per Year; and Authorize the Board of Supervisor Chair to Sign the Agreement.

This training event will consist of four 4-hour, site specific active threat trainings, with up to 125 participants per training. The training is designed for all staff assigned to the individual departments. The annual cost of the training will be $22,780 and will total $68,340 over the 3 year term.

The following locations will have on-site training: Government Center, Hall of Records, Probation Department, District Attorney’s Office, and the Public Works Department. Smaller offices will be asked to meet at one of these locations to join in on a training.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
On March 4, 2021, the Mariposa County Safety Committee adopted the department safety plan. The department safety plan calls for this training to take place on an annual basis.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
It is important that all employees feel safe and are trained to be aware of their surroundings and act quickly in the event of an active shooter situation. The consequences of not being prepared could result in injury or death.

FINANCIAL IMPACT:
$22,780 per year for 3 years

ATTACHMENTS:
Knowledge Saves Lives, Inc. Agreement (PDF)
RESULT:  ADOPTED [UNANIMOUS]
MOVER:  Rosemarie Smallcombe, District I Supervisor
SECONDER: Wayne Forsythe, District IV Supervisor
AYES:  Smallcombe, Sweeney, Long, Forsythe, Menetrey
CONSULTING and TRAINING SERVICES CONTRACT  
between  
Mariposa County  
And  
Knowledge Saves Lives Incorporated 

Contract No. CT-21-131 

This Consulting/Training Services Contract ("Contract") is made by and between Mariposa County ("Client") and Knowledge Saves Lives Inc. ("Contractor"). The parties agree as follows:

CONTRACTOR DATA 

Contractor Name: Knowledge Saves Lives Inc. (KSL INC.)  
Physical Address: 3321 G Street, Suite C  
City, State, ZIP: Merced, CA 95340  
Mailing Address: P.O Box 1366  
City, State, ZIP: Los Banos, CA, 93635  
Telephone: (209) 710-0271  
Facsimile: (209) 325-4296  
Email: Training@knowledgesaveslives.com 

Contractor will submit a completed “Request for Taxpayer Identification Number and Certification” (Form W-9) with this signed contract. Payment information will be reported to the Internal Revenue Service under the name and TIN or SSN, whichever is applicable, provided by Contractor. Contractor certifies under penalty of perjury that Contractor is a Corporation -EIN#27-22307884 California Corporation #3285310 Registered and Licensed since March 10th 2010

TERMS AND CONDITIONS 

1. Term and Termination. This Contract becomes effective on 5/1/2021. Unless earlier terminated as provided below, this Contract shall continue through 6/30/2024.

2. Detailed Description of Services / Statement of Work. “See Exhibit B” Statement of work.

3. Recitals.  
a. Consultant. Contractor is a professional consultant, experienced and properly certified/licensed to provide the professional services described herein and is familiar with the plans of the Client. 
b. Project. Client desires to engage Consultant to render its Services (defined below) from 5/1/2021 to 6/30/24. 
c. General Scope of Services. Consultant promises and agrees to furnish all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply professional services, as more particularly described in Exhibit B (Statement of Work) attached hereto and incorporated herein by reference (collectively “Services”). All Services shall be subject to, and performed in accordance with, this Contract, the exhibits attached hereto and incorporated herein by reference, and all applicable local, State and federal laws, rules and regulations.

4. Contract Documents. This Contract consists of these Terms and Conditions and the documents ("Exhibits") listed below in descending order of precedence. A conflict in these documents shall be resolved in the priority listed below with these Terms and Conditions taking precedence over all other documents. The Exhibits to this Contract include the following documents: 

   Exhibit A  Payment Terms
   Exhibit B  Statement of Work
5. **Reimbursable Expenses; Maximum Total Payment; Invoicing.** Client will make no payment until this Contract is fully executed by the authorized representatives of both parties.

   a. **Reimbursable Expenses (please check all that apply):** Client shall reimburse Contractor for the following Contractor expenses: **NONE**

   - [x] Client shall pay Contractor as described in attached Exhibit A.

   b. **Invoicing (please check one):**

   - [x] Invoicing and payment shall be as follows: Upon acceptance, invoice approval, and according to this Contract’s Terms and Conditions. Client shall pay invoices net 30 days.

6. **Other Payment Issues.**

   a. **Method of Payment:** Unless otherwise specified in Section 5 (Reimbursable Expenses; Maximum Total Payment; Invoicing), Client shall pay Contractor net 30 days upon invoice approval and work acceptance.

   b. **Payment on Early Termination:** Upon termination, pursuant to Section 13 (Early Termination), Client shall pay Contractor as follows:

   (i) If Client terminates this Contract for its convenience under Section 13(a) or 13(b), then Client must pay Contractor for work performed before the termination date if and only if Contractor performed in accordance with this Contract. Client shall not be liable for any direct, indirect, or consequential damages. Termination by Client shall not constitute a waiver of any other claim Client may have against Contractor.

   (ii) If Contractor terminates this Contract under Section 13(c) due to Client’s breach, then Client shall pay Contractor for work performed before the termination date if and only if Contractor performed in accordance with this Contract.

   (iii) If Client terminates this Contract under Sections 13(c) or 13(d) due to Contractor’s breach, then Client must pay Contractor for work performed before the termination date less any setoff to which Client is entitled and if and only if Contractor performed such work in accordance with this Contract.

7. **Cost Adjustments.** Both parties agree that contracted prices shall be fixed for the duration of this Contract and any amendment or extensions for twelve months. Contractor must submit to Client any proposed cost adjustments at least 60 days before the proposed effective date of such increases with a detailed explanation for each adjustment. Client alone reserves the right to reject any changes to this Contract it deems unacceptable; and any price increases also require the approval of the Client.

8. **Independent Contractor Status.** By its signature on this Contract, Contractor certifies that the service or services to be performed under this Contract are those of an independent contractor, and that Contractor is solely responsible for the work performed under this Contract. Contractor represents and warrants that Contractor, its subcontractors, employees, and agents are not "officers, agents, or employees" of the Client. Contractor shall be responsible for all federal, state, and local taxes and any and all fees applicable to payments for services under this Agreement. Any additional personnel performing the Services under this Contract on behalf of Contractor shall at all times be under Contractor’s exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Contract and as required by law including, but not limited to, the payment of prevailing wage, as applicable, and in accordance with Labor Code sections 1720 et seq. and 1770 et seq. The Contractor shall obtain a copy of the prevailing rates of per diem wages applicable to the work to be performed under this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. In the alternative, the Client shall provide Contractor with a copy of the prevailing rates of per diem wages. Contractor shall be responsible for all reports and obligations respecting its employees and subcontractors, including, but not limited to, social security taxes, income tax withholding, unemployment insurance, and workers’ compensation insurance.

If the Client is using State funds for the Services and is required to enforce a labor compliance program, then Contractor will be required to enforce the Client’s Labor Compliance Program ("LCP"), as applicable.

9. **Subcontracts and Assignment.** Contractor shall not subcontract, assign, delegate, or transfer any of its duties, rights, or interests under this Contract without the prior written consent of Client. Client may withhold such consent for any or no reason. If Client consents to an assignment or subcontract, then in addition to any other provisions of this Contract, Contractor shall require any permitted subcontractor to be bound by all the terms and conditions of this Contract that
would otherwise bind Contractor. The parties agree that any such subcontracts shall be construed as matters solely between the Contractor and its subcontractor and shall have no binding effect on Client.

10. Successors in Interest. This Contract shall bind and inure to the benefit of the parties, their successors, and approved assigns, if any.

11. No Third-Party Beneficiaries. Client and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract provides any benefit or right, directly or indirectly, to third parties unless they are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.

12. Nonperformance. As used in this Contract, “failure to perform” means failure, for whatever reason, to deliver goods and/or perform work as specified and scheduled in this Contract. If Contractor fails to perform under this Contract, then Client, after giving seven days' written notice and opportunity to cure to Contractor, has the right to complete the work itself, to obtain the contracted goods and/or services from other contractors, or a combination thereof, as necessary to complete the work. Both parties agree that Contractor shall bear any reasonable cost difference, as measured against any unpaid balance due Contractor, for these substitute goods or services.

13. Early Termination. This Contract may be terminated as follows unless otherwise specified herein:
   a. Mutual: Client and Contractor may terminate this Contract at any time by their written agreement.
   b. Client’s Sole Discretion: Client in its sole discretion may terminate this Contract for any reason on 30 days' written notice to Contractor.
   c. Breach: Either party may terminate this Contract in the event of a breach by the other party. To be effective, the party seeking termination must give to the other party written notice of the breach and its intent to terminate. If the breaching party does not entirely cure the breach within 15 days of the date of the notice, then the non-breaching party may terminate this Contract at any time thereafter by giving a written notice of termination.
   d. Contractor Licensing, etc.: Notwithstanding Section 13.c, Client may terminate this Contract immediately by written notice to Contractor upon denial, suspension, revocation, or non-renewal of any license, permit, or certificate that Contractor must hold to provide services under this Contract.
   e. Furlough: Client reserves the right to terminate or otherwise suspend this Contract immediately if Client’s Board determines that funding is insufficient to remain fully open, calls for a Client-wide furlough or similar temporary Client reduction in operations or such reduction in operations occurs for any other reason. Any temporary closure shall not affect amounts due Contractor under this Contract for any services provided to Client, subject to a pro-rated adjustment for reduction in services or need for goods during the furlough.

14. Remedies. In case of Contractor breach and in addition to the provisions of Sections 12 and 13, Client shall be entitled to any other available legal and equitable remedies. In case of Client breach, Contractor’s remedy shall be limited to termination of the Contract and receipt of Contract payments to which Contractor is entitled.

15. Errors. Contractor shall perform any and all additional work necessary to correct errors in the work required under this Contract without undue delays or additional cost to Client.

16. Ownership of Work Products. Contractor agrees that all work products created or developed for Client by Contractor pursuant to this Contract are intended as “works made for hire” and shall be the exclusive property of the Client. If any such work products contain Contractor’s intellectual property that is or could be protected by federal copyright, patent, or trademark laws, Contractor hereby grants Client a perpetual, royalty-free, fully-paid, non-exclusive, and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, and use or re-use, in whole or in part, and to authorize others to do so, all such work products. **Client claims no right to any pre-existing work product of Contractor provided to Client by Contractor in the performance of this Contract, except to copy, use, or re-use any such work product for Client use only.**

17. Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its employees and subcontractors appropriate to the nature of the services and the conditions under which the services are to be performed. Safety precautions as applicable shall include, but shall not be limited to: (1) adequate life protection and lifesaving equipment and procedures; and (2) instructions in accident prevention for all employees and subcontractors,
such as providing personal protective equipment such as ear plugs and safety glasses. The Client is responsible for the attendees wearing appropriate shoes and not allowing open toed shoes such as heels or sandals during a training event. The Client is responsible for maintaining adequate facilities for the proper inspection and maintenance of all safety measures.

18. Security. Any disclosure or removal of any Client matter or property by Contractor shall be cause for immediate termination of this Contract. Contractor shall bear sole responsibility for any liability including, but not limited to attorney fees, resulting from any action or suit brought against Client because of Contractor's willful or negligent release of information, documents, or property contained in or on Client property. Client hereby deems all information, documents, and property contained in or on Client property privileged and confidential.

19. Employee Removal. At Client’s request, Contractor shall immediately remove any Contractor employee from all Client properties in cases where the Client in its sole discretion determines that removal of that employee is in the Client's best interests.

20. Compliance with Applicable Law. For the services provided under this Contract, Contractor shall comply with all federal, state, and local laws applicable to public contracts and the work done under this Contract, and with all regulations and administrative rules established pursuant to those laws.

   a. Contractor shall defend, indemnify, and hold harmless ("Indemnification") the Client, its trustees, officials, directors, officers, employees, volunteers, and agents from and against all liabilities, losses, expenses, claims, actions, or judgments (including attorney fees) recovered or made against Client for any damage, injury, or death to persons or damage to property caused by the negligent or intentional acts or omissions of Contractor, its officers, employees, agents, or subcontractors (of all tiers) related to Contractor's performance or activities under this Contract. Contractor's Indemnification extends to conditions created by this Contract or based upon violation of any statute, ordinance, or regulation. This provision is in addition to any common law or statutory liability and indemnification rights available to Client. Contractor's Indemnification of Client shall not apply to the extent the damage, injury, or death is caused by the sole negligence or willful misconduct of Client, its officers, directors, employees, volunteers, or agents. Client will promptly notify Contractor in writing of any such claim or demand to indemnify and shall cooperate with Contractor in a reasonable manner to defend such claim.
   b. Client shall defend, indemnify and hold harmless Contractor, its officers, directors, agents, volunteers, and employees from and against all claims, liabilities, losses, expenses, actions, or judgments (including attorneys' fees) that the Services resulted in Post-Traumatic Stress Disorder (PTSD) or other mental or physical condition as a result of participation in any approved training event.

22. Insurance. The Contractor shall, at its sole cost and expense, maintain, for the duration of this Contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, Contractor's agents, representatives, officers, employees, or subcontractors (of all tiers). Payment for insurance shall be considered as included in the various items of work as bid or in the lump sum price bid (as the case may be), and no additional payment will be made. The following insurance coverage(s), as applicable, are required:
   a. Commercial general liability insurance in an amount not less than $1,000,000 per occurrence and $2,000,000 general aggregate. Such coverage shall include but shall not be limited to broad form contractual liability, products and completed operations liability, independent contractor's liability, and cross liability protection. The Client, its Board of Supervisors, and their officials, employees, and agents shall be named as additional insureds. There shall be no limitations on the coverage afforded to the Client, its Board of Supervisors, and their officials, employees, and agents.
   b. The Contractor WILL NOT be providing services that require Contractor to transport Client personnel.
   c. Workers' compensation insurance as required by the California Labor Code and employer's liability insurance in an amount of not less than $1,000,000 per accident or occupational illness.
   d. The Contractor IS NOT required to obtain Professional Liability / Errors & Omissions (E&O) liability insurance.

23. Waiver; Severability. Waiver of any default or breach under this Contract by Client does not constitute a waiver of any subsequent default or a modification of any other provisions of this Contract. If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held invalid.
24. Non-discrimination Clause. Both parties agree that no person shall be subject to unlawful discrimination based on race; color; gender; age; religion; national origin; U.S. military veteran status; marital status; sexual orientation; disability; source of income; or political affiliation in programs, activities, services, benefits, or employment in connection with this Contract or in any other manner prohibited by law. The parties further agree not to discriminate in their employment or personnel policies.

25. Conflict of Interest. Contractor shall disclose to Client any outside activities or interests that conflict or may conflict with the interests of the Client. Prompt disclosure is required if the activity or interest is related, directly or indirectly, to (1) any activity that Contractor may be involved with on behalf of the Client, or (2) any activity that Contractor may be involved with on behalf of any other firm or agency. In addition, Contractor shall comply with all provisions of the Political Reform Act and implementing regulations, as applicable, and in accordance with the Client's Conflict of Interest Code. Contractor shall be subject to the broadest disclosure category in the Client's Conflict of Interest Code during the term of this Agreement, except to the extent specifically modified in writing by the Client. For the term of this Agreement, no member, officer or employee of Client, during the term of his or her service with Client, shall have any direct interest in this Contract, or obtain any present or anticipated material benefit arising therefrom.

26. Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer, and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, gender identity, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

27. Confidentiality. Contractor hereby acknowledges that certain records and information maintained by the Client, or by Contractor on behalf of the Client, are protected by law and shall not be released to third parties without express authorization from the Client. Such records include, but are not limited to personnel records. In addition, all ideas, memoranda, plans, strategies, and documents shared with Contractor by Client in connection with the performance of this Contract, not generally known to the public, shall be held confidential by Contractor. Contractor agrees that information acquired by Contractor during meetings with the Client's administrative team, or during closed session Board discussions are deemed confidential and, except to the extent required by law, shall not be shared with third parties without express authorization from the Client.

28. Controlling Law; Venue. The parties agree that California law will govern any dispute related to this Contract, and, subject to Section 34, any litigation arising out of the Contract shall be conducted in courts located in Mariposa County, California.

29. Amendments; Renewal. Any amendments, consents to or waivers of the terms of this Contract must be in writing and signed by both parties. The parties may renew this Contract by their signed, written instrument.

30. Counterparts. The parties may execute this Contract in counterparts, each of which constitutes an original and all of which comprise one and the same Contract. Counterparts may be delivered by electronic means.

31. Arbitration. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Mariposa County, California before one arbitrator. The arbitration shall be administered by the Client’s appointed arbitrator pursuant to its arbitration rules and procedures, if any. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

32. Entire Agreement. When signed by both parties, this Contract (and any attached exhibits) is their final and entire agreement. As their final and entire expression, this Contract supersedes all prior and contemporaneous oral or written communications between the parties, their agents, and representatives. There are no representations, promises, terms, conditions, or obligations other than those contained herein.

33. Notices. All notices or demands of any kind required or desired to be given by Client or Contractor must be in writing and shall be deemed delivered upon depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the respective party at the addresses herein.
I HAVE READ THIS CONTRACT, INCLUDING ALL EXHIBITS. I CERTIFY THAT I HAVE THE AUTHORITY TO SIGN AND ENTER INTO THIS CONTRACT ON BEHALF OF THE PARTY I REPRESENT AND AGREE TO BE BOUND BY ITS TERMS.

CONTRACTOR

Signature

Paul Llanez, Chief Executive Officer
Authorized Representative Printed Name

April 20th, 2021
Date

MAIL CORRESPONDENCE TO

Luiana Irizarry, Chief Financial Officer
Knowledge Saves Lives Inc.
3321 G Street, Suite C
Merced, CA 95340

CLIENT

Signature

Marshall Long, Board Chair
Printed Name Client Authorized Representative

May 4th, 2021
Date

APPROVED AS TO FORM:

STEVEN W. DAHLEM
COUNTY COUNSEL
EXHIBIT A

PAYMENT TERMS

The Mariposa County shall pay Knowledge Saves Lives Incorporated the total amount below. Payment shall be made at the completion of the agreement statement of work annually.

Annually:
$22,780.00

3-Year Total:
$68,340.00

For services described in the attached document. Invoice payments should be made to:

Knowledge Saves Lives Inc.
PO Box 1366
Los Banos, CA 93635

Invoice Net 30 upon receipt.

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EXHIBIT B

STATEMENT OF WORK

Contractor shall provide the following services:

Active Threat Scenario Training:

Three-year contract for Individual Emergency Preparedness Safety Training event for the employees of Mariposa County located within California. The future training event will consist of four 4-hour, site specific active threat trainings, with up to 125 participants per training annually. The training is designed for all staff assigned to the individual departments. KSL is responsible for providing the emergency preparedness training as well as follow up course evaluations for each attendee and an after-action report of each training provided. The report will be provided to Mariposa County within 14 days following the training event.

Four Trainings Performed in Three Days

Two Sessions:
Location: Parking lot between buildings.
8:00 a.m. – 12:00 p.m. Government Center - $5,695.00
1:00 p.m. – 5:00 p.m. Hall of Records - $5,695.00

One Session:
Location: District Attorney Parking lot.
1:00 p.m. – 5:00 p.m. District Attorney - $5,695.00

One Session:
Location: Public Works Yard.
8:00 a.m. – 12:00 p.m. Public Works - $5,695.00

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