



# Revision to ASR and/or Exhibits/Attachments

**Date:** November 16, 2007

**To:** Darlene J. Bloom, Clerk of the Board of Supervisors

**CC:** County Executive Office

**From:** Bryan Speegle, Director, RDMD

**RE:** Agenda Item(s) # 19 for the November 20, 2007 Board Meeting

**ASR Control #(s):** 07-002433

**Subject:** Santiago Fire Recovery Engineering Services

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## Explanation:

Additional language is required to explain the project is unbudgeted and there is a need to transfer funds from OC Parks Fund 406 P001 Engineering Change Orders to a new capital project in Fund 406 ("Santiago Canyon Fire Erosion" - P821), and to include tasks and funding for fire recovery work for the Orange County Flood Control District (OCFCD) (Fund 400).

**Budgeted:** Change Budgeted to No.

**Funding Source:** Funding Source is revised to read:

OC Parks Fund 406: 75%; Orange County Flood Control District (OCFCD) Fund 400: 25%

The **Financial Impact** is revised to read:

This project is not currently budgeted as a capital project in Orange County Parks (OC Parks) Fiscal Year (FY) 2007/08 budget. OC Parks will use current appropriations in Fund 406 P001 "Engineering Change Orders" account to finance 75% of this project. Although the costs associated with the architect-engineer (A-E) agreement for OC Parks will be \$262,500, an additional appropriation of \$437,500 is proposed to fund costs for implementation of stormwater run-off mitigation measures associated with the Santiago Fire. As a result, appropriations of \$700,000 are proposed for OC Parks to fund the total project costs for this unanticipated capital project.

OCFCD also requires post-fire engineering services to address stormwater run-off impacts. OCFCD did not budget this unanticipated emergency project. However, OCFCD does have sufficient appropriations to finance \$87,500 (25%) of the costs for this A-E agreement.

Revised Recommended Action(s): Add Recommended Action No. 4 below.

1. Authorize the Purchasing Agent or designee to execute Agreement K1000000094 with Geosyntec Consultants for an amount not to exceed \$350,000 for post-fire erosion and sediment control on-call engineering services for a contract term of two years.
2. Authorize the Director of Resources and Development Management Department (RDMD) or his designee to exercise a contingency contract cost increase not to exceed a total of 10 percent of the total contract amount.
3. Authorize the Resources and Development Management Department to seek reimbursement of project costs from appropriate State and Federal agencies supporting emergency recovery efforts.
4. Direct RDMD in coordination with the Auditor-Controller to implement the following budget transfer in the Orange County Parks Fund 406.
  - A. Decrease appropriations 406-406-P001-4200.00 "Engineering Change Orders" in the amount of \$700,000.
  - B. Increase appropriations 406-406-P821-4200.00 "Santiago Canyon Fire Erosion" in the amount of \$700,000.
5. Find that the subject project is Statutorily Exempt from the provisions of CEQA pursuant to Section 15262 of the CEQA Guidelines.

Make modifications to the:

Subject       Background Information       Summary

Revised Exhibits/Attachments (attached)

Attachment A has been revised to add the Orange County Flood Control District (OCFCD) as a party to the Agreement and Scope of Work for tasks and funding addressing stormwater run-off. The attached document replaces the Attachment A previously submitted.

Additional Information and/or Correspondence (attached)

**ATTACHMENT A**

Agreement No. K100000094  
(w/prof. liab.)  
Revised 11-15-07

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**A G R E E M E N T**

**THIS AGREEMENT**, hereinafter referred to as "**AGREEMENT**," for purposes of identification hereby numbered K1000000094, and dated \_\_\_\_ day of \_\_\_\_\_, 2007 is

**BY AND BETWEEN**

County of Orange, a political subdivision of the State of California, hereinafter referred to as "**COUNTY**";

Orange County Flood Control District, a body corporate and politic, hereinafter referred to as "**DISTRICT**",

which are, respectively, sometimes individually referred to as "**COUNTY**" and "**DISTRICT**" or collectively referred to as "**COUNTY**"

**AND**

Geosyntec Consultants, Incorporated, hereinafter referred to as "**A-E**",

which are sometimes individually referred to as "**PARTY**" or collectively referred to as "**PARTIES**"

**RECITALS**

**WHEREAS**, COUNTY requires professional services to accomplish projects and/or services ("**PROJECTS/SERVICES**") as described in Scope Of Work for "**ON-CALL**" Architect-Engineer Services for 2007 Santiago Fire Burn Area - OC Parks Lands," hereinafter referred to as "**Exhibit A**," attached hereto and incorporated herein by reference; and

**WHEREAS**, A-E is a firm whose principals are, as required by law, registered by the State of California for the practice of Civil Engineering, Mechanical Engineering, Electrical Engineering, Corrosion Engineering, Architecture, Landscape Architecture, or Land Surveying.

**NOW, THEREFORE, IT IS AGREED** by and between the parties hereto as

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(w/prof. liab.)  
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1 follows:

2           **A. Retainer**

3           1. COUNTY does hereby retain A-E to perform the PROJECTS/  
4 SERVICES as required by this AGREEMENT.

5           2. A professional, duly registered in the State of  
6 California, who shall be assigned to PROJECTS/SERVICES and whose services are  
7 offered by A-E and accepted by COUNTY is **Eric Smalstig**.

8           3. A-E may employ special consultants/contractors for the  
9 accomplishment of the PROJECTS/SERVICES specified; and, it is agreed that  
10 firms or independent consultants/contractors who are to be employed to  
11 provide these PROJECTS/SERVICES shall be approved in writing in advance by  
12 Director, Resources and management Department or his designee (hereinafter  
13 referred to as "DIRECTOR") and that the aggregate money value of their  
14 PROJECTS/SERVICES shall not constitute more than forty-nine percent (49%) of  
15 the total amount of PROJECTS/SERVICES required under this AGREEMENT.

16           4. Consultants/contractors may be substituted or added  
17 by mutual AGREEMENT of A-E and the DIRECTOR.

18           5. A-E's employment of independent consultants/contractors shall  
19 not relieve A-E from the performance of its own responsibilities pursuant to  
20 this AGREEMENT. However, all consultants/contractors independently  
21 contracting with COUNTY shall be independently liable to COUNTY for the  
22 performance of the work pursuant to their agreements, and A-E shall have no  
23 liability for work by contractors independently contracting with COUNTY.

24           **B. PROJECTS/SERVICES**

25           1. Description of PROJECTS/SERVICES

26           a. PROJECT/SERVICES to be performed by A-E shall consist of

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1 the work as specified herein and as required in Exhibit A. If in the event  
2 Exhibit A shall be in conflict with any provision of this AGREEMENT, the  
3 wording as set forth in Exhibit A shall prevail.

4 b. A-E shall be responsible for submitting all  
5 PROJECTS/SERVICES to COUNTY in a form which has been thoroughly reviewed and  
6 checked for completeness, accuracy and consistency by the registered  
7 professional named in Section A herein; and, any PROJECTS/SERVICES not  
8 meeting this requirement will be returned to A-E prior to review by COUNTY.

## 9 2. Design Criteria and Standards

10 All PROJECTS/SERVICES shall be performed in accordance with  
11 instructions, criteria and standards set forth by the DIRECTOR.

## 12 3. Scheduling

13 a. Concurrently with the work of the AGREEMENT, A-E shall  
14 prepare a progress work schedule and within ten (10) working days from the  
15 date of receipt of individual assignments from COUNTY, A-E shall submit to  
16 COUNTY two (2) copies of a progress work schedule which shall delineate dates  
17 of commencement and completion of the various phases of PROJECTS/SERVICES  
18 assignments. A-E schedule shall include required COUNTY review period(s) set  
19 forth herein. An approved copy of the progress schedule will be returned to  
20 A-E.

21 b. A-E shall allow at least ten (10) working days for  
22 COUNTY review of progress work schedule. In planning work A-E should  
23 anticipate and allow ten (10) working days for COUNTY review of each  
24 submittal required in Exhibit A.

25 c. A-E shall meet at least once every two (2) weeks with  
26 COUNTY to review progress of work, adherence to progress schedule,

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1 coordination of work, scheduling of seminars, if needed, and to resolve any  
2 problems that may develop.

3 d. Within ten (10) working days of each meeting, A-E shall  
4 prepare a brief memorandum summarizing the results of the meeting and shall  
5 submit it to COUNTY for concurrence.

6 e. A-E shall complete all the work of PROJECTS/SERVICES  
7 and obtain all approvals by the COUNTY within the time frame indicated in  
8 Exhibit A except A-E shall not be responsible for any delay beyond the  
9 control of A-E.

10 f. In the event A-E fails to complete the work and obtain  
11 the approval of DIRECTOR in the time allowed, COUNTY shall have the option of  
12 completing the work by its own forces or by contract with another firm. The  
13 time allowed for A-E to complete the PROJECTS/SERVICES pursuant to this  
14 AGREEMENT shall be extended for delay caused by COUNTY in completing its work  
15 pursuant to this AGREEMENT which delay exceeds the agreed COUNTY review  
16 and/or approval time periods.

## 17 C. Assistance by COUNTY

18 1. COUNTY shall assign an appropriate staff member to work with  
19 A-E in connection with the work of this AGREEMENT. Said staff member's  
20 duties will consist of the giving of advice and consultations, assisting A-E  
21 in negotiations with other public agencies and private parties, miscellaneous  
22 items which in the judgment of A-E or COUNTY's staff warrant attention, and  
23 all other duties as may be described in Exhibit A.

24 2. However, all of the above activities shall be the primary  
25 responsibility of A-E to schedule, initiate and carry through to completion.

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1           **D.    Non-Employment of COUNTY Personnel**

2           A-E agrees that no employee of COUNTY, including but not limited  
3 to those who may be involved in this PROJECT shall be given or offered  
4 employment by A-E during the life of this AGREEMENT regardless of the  
5 assignments said employee may be given or the days or hours employee may  
6 work.

7           **E.    Non-Discrimination**

8           1.    In the performance of this AGREEMENT, A-E agrees that it will  
9 comply with the requirements of the California Labor Code and not engage nor  
10 permit any subcontractors to engage in discrimination in employment of  
11 persons because of the race, religious creed, color, national origin,  
12 ancestry, physical disability, mental disability, medical condition, marital  
13 status, or sex of such persons.

14           2.    A-E acknowledges that a violation of this provision shall  
15 subject A-E to all the penalties imposed for a violation of the California  
16 Labor Code.

17           **F.    Employee Eligibility Verification**

18           1.    A-E warrants that it fully complies with all Federal and  
19 State statutes and regulations regarding the employment of aliens, others and  
20 that all its employees performing work under this AGREEMENT meet the  
21 citizenship or alien status requirement set forth in Federal statutes and  
22 regulations. A-E shall obtain, from all employees performing work hereunder,  
23 all verification and other documentation of employment eligibility status  
24 required by Federal or State statutes and regulations, including but not  
25 limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324  
26 et seq., as they currently exist and as they may be hereafter amended. A-E

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1 shall retain all such documentation for all covered employees for the period  
2 prescribed by the law.

3           2. A-E shall indemnify, defend with counsel approved in writing  
4 by COUNTY/DISTRICT, and hold harmless, the COUNTY/DISTRICT, its agents,  
5 officers, and employees from employer sanctions and any other liability which  
6 may be assessed against A-E or the COUNTY/DISTRICT or both in connection with  
7 any alleged violation of any Federal or State statutes or regulations  
8 pertaining to the eligibility for employment of any persons performing work  
9 under this AGREEMENT.

## 10           G. Termination of Contract for Cause

11           1. If A-E breaches any of the covenants or conditions of this  
12 AGREEMENT, COUNTY/DISTRICT shall have the right to terminate this AGREEMENT  
13 upon ten (10) days written notice prior to the effective day of termination.

14           2. A-E shall have the opportunity to cure the alleged breach  
15 prior to termination.

16           3. In the event the alleged breach is not cured by A-E prior to  
17 termination, all work performed by A-E pursuant to this AGREEMENT, which  
18 work has been reduced to plans or other documents, shall be made available  
19 to COUNTY/DISTRICT.

## 20           H. Termination for Convenience

21           1. Notwithstanding any other provision of the AGREEMENT,  
22 COUNTY/DISTRICT may at any time, and without cause, terminate this AGREEMENT  
23 in whole or in part, upon not less than seven (7) calendar days' written  
24 notice to the A-E. Such termination shall be effected by delivery to the A-E  
25 of a notice of termination specifying the effective date of the termination  
26 and the extent of the Work to be terminated.

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1           2.    A-E shall immediately stop work in accordance with the notice  
2 and comply with any other direction as may be specified in the notice or as  
3 provided subsequently by COUNTY/DISTRICT.

4           3.    COUNTY and/or DISTRICT, as appropriate, shall pay the A-E for  
5 the Work completed prior to the effective date of the termination, and such  
6 payment shall be the A-E's sole remedy under this AGREEMENT.

7           4.    Under no circumstances will A-E be entitled to anticipatory  
8 or unearned profits, consequential damages, or other damages of any sort as  
9 a result of a termination or partial termination under this Paragraph.

10          5.    The A-E shall insert in all subcontracts that the  
11 Subcontractor shall stop work on the date of and to the extent specified in  
12 a notice of termination, and shall require subcontractors to insert the same  
13 condition in any lower tier subcontracts.

## 14           I.    Term and Extension of Contract

15           The term of this AGREEMENT is for two (2) years commencing on the  
16 date of execution by the Board of Supervisors. The term of the AGREEMENT may  
17 be extended for two (2) additional one (1) year periods upon mutual agreement  
18 of the parties, at the same terms and conditions and at the sole discretion  
19 of the Board of Supervisors. Extension shall be in writing and will not  
20 increase the maximum allowable compensation of three hundred fifty thousand  
21 dollars (\$350,000).

## 22           J.    A-E Compensation

23           For the PROJECTS/SERVICES authorized under this AGREEMENT, A-E  
24 shall be compensated in accordance with the following:

25           1.    For completion and approval of all PROJECTS/SERVICES where  
26 "Extra Work" (defined as changes in approved portions of the PROJECT/SERVICES

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1 required by and ordered in writing by DIRECTOR which changes constitute a  
2 change in or departure from said approved portions of PROJECTS/SERVICES) is  
3 not authorized, compensation including reimbursables shall be described and  
4 payable as stipulated in Exhibit B, attached hereto and incorporated herein  
5 by reference.

6           2. Where extra work is authorized for PROJECTS/SERVICES:

7           a. The amount for Extra Work shall be determined using the  
8 fee schedule attached hereto as Exhibit B. Extra Work shall be required by  
9 and ordered in writing by DIRECTOR. DIRECTOR may order Extra Work not to  
10 exceed \$5,000 for contracts of less than \$50,000, and may order Extra Work up  
11 to 10 percent for contracts not exceeding \$250,000. For contracts greater  
12 than \$250,000, Extra Work shall not exceed \$25,000 plus one (1) percent of  
13 the original contract amount in excess of \$250,000. In no case shall Extra  
14 Work exceed \$100,000.

15           b. A-E's billing for the Extra Work shall include but not  
16 be limited to names of A-E's staff employed in the Extra Work,  
17 classification of employees and number of hours worked.

18           3. For partial completion of work of PROJECTS/SERVICES followed  
19 by default on part of A-E:

20           a. For failure to complete and secure approval of the  
21 first required submittal, there shall be no compensation.

22           b. For failure to complete and secure approval of other  
23 authorized phases, A-E shall, upon completion of PROJECTS/SERVICES by others,  
24 be entitled to receive compensation based on approved work of  
25 PROJECTS/SERVICES not to exceed the amounts specified in Exhibit A for that  
26 particular submittal, plus the reasonable value as determined by

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1 COUNTY/DISTRICT of the non-approved work; provided, however, that if the cost  
2 to COUNTY to complete the contract exceeds the amount specified herein, A-E  
3 shall be liable to COUNTY/DISTRICT for such excess costs attributable to A-  
4 E's breach of the AGREEMENT.

## 5 K. Laws to be Observed

6 A-E is assumed to be familiar with and, at all times, shall  
7 observe and comply with all federal, state and local laws, ordinances and  
8 regulations in any manner affecting the conduct of the PROJECTS/SERVICES.

## 9 L. Errors and Omissions

10 1. All PROJECTS/SERVICES submitted by A-E shall be complete and  
11 shall be carefully checked prior to submission. A-E understands that  
12 COUNTY's/DISTRICT's checking is discretionary, and A-E shall not assume that  
13 COUNTY/DISTRICT will discover errors and/or omissions. If COUNTY/DISTRICT  
14 discovers any errors or omissions prior to approving A-E's PROJECTS/SERVICES,  
15 the PROJECTS/SERVICES will be returned to A-E for correction. Should  
16 COUNTY/DISTRICT or others discover errors or omissions in the work submitted  
17 by A-E after COUNTY's/DISTRICT's approval thereof, COUNTY's approval of A-E's  
18 PROJECTS/SERVICES shall not be used as a defense by A-E.

19 2. If A-E subcontracts portions of the architectural or  
20 engineering design PROJECTS/SERVICES to be performed under the terms of this  
21 AGREEMENT, A-E shall obtain evidence that such subcontractors have purchased  
22 Professional Liability Insurance to the same limits as described in Paragraph  
23 M (unless modified by Exhibit A) and containing the same clauses as the  
24 insurance required of A-E under the terms of this AGREEMENT. Evidence of  
25 subcontractor's insurance shall be submitted to COUNTY upon request.

26 //

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1           **M. Insurance**

2           1. A-E shall maintain insurance coverage appropriate to protect  
3 against all risks arising from or in any way connected with the subject  
4 matters of this AGREEMENT, acceptable to COUNTY, effective on the first day  
5 of work and in full force throughout the full term of this AGREEMENT. The  
6 policy(ies) shall be underwritten by insurers admitted to operate in the  
7 State of California (California Admitted Carriers), acceptable to COUNTY on  
8 forms no less broad in the scope of coverage than standard forms.

9           2. A-E agrees to deposit with COUNTY within fourteen (14)  
10 calendar days of the date of execution of this AGREEMENT, certificates of  
11 insurance and endorsements (certificates shall be in a form obtainable from  
12 COUNTY) in duplicate to satisfy COUNTY that insurance requirements of this  
13 AGREEMENT have been complied with and to keep such insurance in effect and  
14 the certificates therefor on deposit with COUNTY during the entire term of  
15 this AGREEMENT.

16           3. A-E agrees to furnish additional certified copies of  
17 insurance policy(ies) if requested by letter from COUNTY.

18           4. COUNTY shall retain the right to review the coverage, form,  
19 and amount of the insurance provided by A-E prior to the start of  
20 PROJECTS/SERVICES by A-E. If, in the opinion of DIRECTOR, the certificates  
21 and endorsements provided by A-E do not provide the coverage, form, and  
22 amount of insurance as required and listed herein, COUNTY shall notify A-E in  
23 writing that A-E is in default of the AGREEMENT. A-E shall have fourteen  
24 (14) calendar days from the date of such notification from COUNTY to provide  
25 adequate insurance. If A-E fails to provide adequate insurance within the  
26 time frame specified, COUNTY shall have right to terminate the AGREEMENT

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1 without compensation to the A-E.

2           5. COUNTY shall retain the right at any time to review the  
3 coverage, form, and amount of the insurance required hereby. If, in the  
4 opinion of DIRECTOR, the insurance provisions as described in this AGREEMENT  
5 do not provide adequate protection for COUNTY, COUNTY may require A-E to  
6 obtain insurance sufficient in coverage, form, and amount to provide adequate  
7 protection. COUNTY's requirements shall be reasonable but shall be designed  
8 to assure protection from and against the kind and extent of the risks which  
9 exist at the time a change in insurance is required.

10           6. The costs of such changes in insurance during the  
11 accomplishments of PROJECTS/SERVICES may be requested by COUNTY, shall be  
12 paid by COUNTY and/or DISTRICT, as appropriate, to A-E as either Extra Work,  
13 as described in paragraph J of this AGREEMENT, or as an amendment to the  
14 AGREEMENT.

15           7. COUNTY shall notify A-E in writing of changes in the  
16 insurance requirements; and if A-E does not deposit copies of acceptable  
17 certificates and endorsements with COUNTY incorporating such changes within  
18 fourteen (14) days of receipt of such notice, this AGREEMENT shall be in  
19 default without further notice to A-E, and COUNTY shall be entitled to all  
20 legal remedies.

21           8. The procuring of such required policy(ies) of insurance shall  
22 not be construed to limit A-E's liability hereunder nor to fulfill the  
23 indemnification provisions of this AGREEMENT.

24           9. Entire limits of liability maintained must be certified but  
25 in no event shall limits be less than specified herein. Any aggregate  
26 limitation of liability shall be separate as to the risks arising out of the

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1 subject matter of this AGREEMENT.

2	<u>Coverage</u>	<u>Minimum Limit</u>
3	Workers' Compensation	Statutory
4	Employer's Liability	\$1,000,000 per occurrence
5	Comprehensive General Liability	\$1,000,000 combined single limit per occurrence; \$2,000,000 aggregate
6		
7		
8	Auto Liability	\$1,000,000 combined single limit per occurrence
9		
10	Professional Liability	\$1,000,000 claims made
11	(Errors and Omissions)	

12 10. A-E's insurance policy(ies) shall contain the following  
13 additional clauses:

14 a. A "Discovery Clause" or its equivalent stating that  
15 coverage will be provided for claims made following insurance policy  
16 expiration if A-E gives written notice of a claim to the insurer (for  
17 Professional Liability only).

18 b. A clause stating, "This insurance shall not be  
19 canceled, reduced in scope or coverage, changed or amended until after 30  
20 days written notice has been given to: DIRECTOR, County of Orange, Resources  
21 and Development Management Department at 300 North Flower Street, Santa Ana,  
22 CA 92703-5000; and, Orange County Risk Management Services, P.O. Box 327,  
23 Santa Ana, CA 92702."

24 c. A clause stating, "This insurance shall be primary and  
25 non-contributing with insurance maintained or self-insured by: the County of  
26 Orange and/or the Orange County Flood Control District."

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1 d. A clause stating, "The following parties are hereby  
2 named additional insureds: County of Orange and the Orange County Flood  
3 Control District" (for Comprehensive General Liability and Auto Liability  
4 only).

5 e. A clause stating, "This insurance shall allow for  
6 severability of interest of the: County of Orange and the Orange County Flood  
7 Control District."

8 f. Insurance policy(ies) obtained by A-E shall not contain  
9 insurance policy riders or clauses which shall negate or modify any  
10 provision(s) or requirement(s) contained within the AGREEMENT.

## 11 N. Indemnification

12 A-E agrees to indemnify, defend with counsel approved in writing  
13 by COUNTY, and hold COUNTY, DISTRICT, their elected and appointed officials,  
14 officers, employees, agents and those special districts and agencies which  
15 COUNTY'S Board of Supervisors acts as the governing Board ("COUNTY/DISTRICT  
16 INDEMNITEES") harmless from any claims, demands or liability of any kind or  
17 nature, including but not limited to personal injury or property damage,  
18 arising out of, pertaining to, or relating to the negligence, recklessness,  
19 or willful misconduct of the A-E. If judgment is entered against A-E and  
20 COUNTY/DISTRICT by a court of competent jurisdiction because of the  
21 concurrent active negligence of A-E and COUNTY/DISTRICT or COUNTY/DISTRICT  
22 INDEMNITEES, A-E and COUNTY/DISTRICT agree that liability will be apportioned  
23 as determined by the court. Neither party shall request a jury  
24 apportionment. Notwithstanding anything stated above, nothing contained  
25 herein shall relieve A-E of any insurance requirements or obligations created  
26 elsewhere in this AGREEMENT.

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1           **O. Award of Construction Contract**

2           A-E is hereby informed of COUNTY's policy of not awarding a  
3 construction contract to a contractor or subcontractor who performed  
4 architectural-subcontractor services for the design of PROJECTS/SERVICES or  
5 is a subcontractor or parent of a firm that performed architectural-  
6 engineering services for the design of these PROJECTS/SERVICES.

7           **P. Amendments**

8           No alteration or variation of the terms of this AGREEMENT shall be  
9 valid unless made in writing and signed by the parties; no oral understanding  
10 or agreement not incorporated herein shall be binding on either of the  
11 parties; and no exceptions, alternatives, substitutes or revisions are valid  
12 or binding on COUNTY unless authorized by COUNTY in writing.

13           **Q. Successors and Assigns**

14           The terms and provisions of this AGREEMENT shall be binding upon  
15 and inure to the benefit of the parties hereto and their successors and  
16 assigns.

17           **R. Entirety**

18           This AGREEMENT contains the entire agreement between the parties  
19 with respect to the matters provided for herein.

20           **S. Severability**

21           If any part of this AGREEMENT is held, determined, or adjudicated  
22 to be illegal, void, or unenforceable by a court of competent jurisdiction,  
23 the remainder of this AGREEMENT shall be given effect to the fullest extent  
24 reasonably possible.

25           **T. Binding Obligation**

26           The PARTIES to this AGREEMENT represent and warrant that this

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1 AGREEMENT has been duly authorized and executed and constitutes the legally  
2 binding obligation of their respective organization or entity enforceable in  
3 accordance with its terms.

## 4 U. Governing Law and Venue

5 1. This AGREEMENT has been negotiated and executed in the  
6 State of California and shall be governed by and construed under the  
7 laws of the State of California. In the event of any legal action to  
8 enforce or interpret this AGREEMENT, the sole and exclusive venue shall  
9 be a court of competent jurisdiction located in Orange County,  
10 California, and the PARTIES hereto agree to and do hereby submit to the  
11 jurisdiction of such court, notwithstanding Code of Civil Procedure,  
12 Section 394.

13 2. The PARTIES specifically agree that by soliciting and  
14 entering into and performing PROJECTS/SERVICES under this AGREEMENT, the A-E  
15 shall be deemed to constitute doing business within Orange County from the  
16 time of solicitation of work, through the period when all PROJECTS/SERVICES  
17 under this AGREEMENT is completed, and continuing until the expiration of any  
18 applicable limitations period.

## 19 V. Child Support Enforcement Requirements

20 1. To comply with child support enforcement requirements of the  
21 COUNTY, within thirty (30) days of notification of selection for award of  
22 PROJECTS/SERVICES, A-E agrees to complete and furnish to the DIRECTOR the  
23 information required in Exhibit C, attached hereto and incorporated herein by  
24 reference.

25 2. If A-E is not a corporation, general partnership, limited  
26 liability partnership, and limited liability company, A-E shall, within

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1 thirty (30) days of notification of selection of award of PROJECTS/SERVICES,  
2 complete and furnish DIRECTOR the information required in Exhibit D, attached  
3 hereto and incorporated herein by reference.

4 3. It is expressly understood that this data will be transmitted  
5 by COUNTY to governmental agencies charged with the establishment and  
6 enforcement of child support orders and for no other purposes.

## 7 W. Ownership of Documents

8 1. All data, including but not limited to letters, reports,  
9 files, plans, drawings, specifications, proposals, sketches, diagrams and  
10 calculations, prepared by A-E and/or anyone acting under the supervision of  
11 A-E pursuant to this AGREEMENT, shall become the property of COUNTY/DISTRICT  
12 upon preparation by A-E and may be used by the COUNTY/DISTRICT as it may  
13 require without additional cost to the COUNTY/DISTRICT.

14 2. COUNTY/DISTRICT shall not be limited in any way to its use  
15 thereof at any time, including the release of this data to third parties. A-  
16 E shall be held harmless for release of such data as may be prepared or  
17 created under this AGREEMENT to any third party. If A-E and/or anyone acting  
18 under the supervision of A-E should later desire to use any of the data  
19 prepared in connection with this AGREEMENT, A-E shall first obtain the  
20 written approval of COUNTY/DISTRICT.

## 21 X. Confidentiality

22 1. All ideas, memoranda, specifications, plans, procedures,  
23 drawings, descriptions, and all written or other information submitted to A-  
24 E in connection with the performance of this AGREEMENT shall be held  
25 confidential by A-E and/or anyone acting under the supervision of A-E and  
26 shall not, without the prior written consent of COUNTY/DISTRICT, be used for

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1 any purposes other than the performance of the PROJECTS/SERVICES described  
2 in Exhibit A, nor be disclosed to any person, partnership, company,  
3 corporation or agency, not connected with the performance of the  
4 PROJECTS/SERVICES.

5 2. Nothing furnished to A-E which is generally  
6 known among counties and flood control districts in Southern California  
7 shall be deemed confidential.

8 3. A-E and/or anyone acting under the supervision of A-E shall  
9 not use COUNTY/DISTRICT name or insignia, photographs of the work, or any  
10 other publicity pertaining to the work in any magazine, trade paper,  
11 newspaper, or other medium without the express written consent of  
12 COUNTY/DISTRICT.

## Y. Publication

13 1. No copies, sketches or graphs, including graphic art work,  
14 resulting from performance or prepared in connection with the  
15 PROJECTS/SERVICES, are to be released by A-E and/or anyone acting under the  
16 supervision of A-E to any person, partnership, company, corporation, or  
17 agency, without prior written approval by COUNTY/DISTRICT, except as  
18 necessary for the performance of the PROJECTS/SERVICES.

19 2. All press releases, including graphic display information to  
20 be published in newspapers, magazines, etc., are to be administered only by  
21 COUNTY/DISTRICT unless otherwise agreed to in writing by both parties.

## Z. Records and Audit/Inspections

22 1. A-E shall keep an accurate record of time expended by A-E  
23 and/or consultants employed by A-E in the performance of this AGREEMENT.  
24

25 2. Within ten (10) days of COUNTY'S/DISTRICT'S written request,  
26 A-E shall allow COUNTY/DISTRICT or authorized State or Federal agencies or

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1 any duly authorized representative to have the right to access, examine,  
2 audit, excerpt, copy or transcribe any pertinent transaction, activity, time  
3 cards or other records relating to this AGREEMENT.

4 3. A-E shall keep such material, including all pertinent cost  
5 accounting, financial records and proprietary data for a period of three (3)  
6 years after termination or completion of the AGREEMENT or until resolution of  
7 any claim or dispute between the PARTIES, whichever is later.

8 4. Should A-E cease to exist as a legal entity, records  
9 pertaining to this AGREEMENT shall be forwarded within a reasonable period of  
10 time not to exceed sixty (60) days to its successor in interest or surviving  
11 entity in a merger or acquisition, or, in the event of liquidation to COUNTY.

## 12 AA. Notices

13 1. Any and all notices, requests demands and other  
14 communications contemplated, called for, permitted, or required to be given  
15 hereunder shall be in writing, except through the course of the PARTIES'  
16 project managers' routine exchange of information and cooperation during the  
17 PROJECTS/SERVICES.

18 2. Any written communications shall be deemed to have been duly  
19 given upon actual in-person delivery, if delivery is by direct hand, or upon  
20 delivery on the actual day of receipt or no greater than four (4) calendar  
21 days after being mailed by U. S. certified or registered mail, return receipt  
22 requested, postage prepaid, whichever occurs first. The date of mailing shall  
23 count as the first day.

24 3. All communications shall be addressed to the appropriate  
25 party at the address stated herein or such other address as the parties  
26 hereto may designate by written notice from time to time in the manner

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1 aforesaid.

2 For A-E

3 Name: Geosyntec Consultants, Inc  
4 Address: 2100 Main St, Suite 150  
5 City: Huntington Beach  
6 Attn: Eric Smalstig  
7 Phone: 714-969-0800  
8 E-mail: esmalstig@geosyntec.com  
9 Fax: 714-969-0820

10 For COUNTY/DISTRICT:

11 Name: DIRECTOR, RDMD  
12 Address: 300 N. Flower, Rm 427  
13 City: Santa Ana  
14 Attn: Scott Thomas, Design Manager, OC Parks  
15 Phone: 949-923-3757  
16 E-mail: scott.thomas@rdmd.ocgov.com  
17 Fax: 714-834-6665

## 18 AB. Attorney's Fees

19 In any action or proceeding to enforce or interpret any provision  
20 of this AGREEMENT, or where any provision hereof is validly asserted as a  
21 defense, each party shall bear its own attorney's fees, costs and expenses.

## 22 AC. Interpretation

23 1. This AGREEMENT has been negotiated at arm's length and  
24 between persons sophisticated and knowledgeable in the matters dealt with in  
25 this AGREEMENT.

26 2. In addition, each PARTY has been represented by experienced  
and knowledgeable independent legal counsel of their own choosing, or has  
knowingly declined to seek such counsel despite having the opportunity to do  
so.

3. Each PARTY further acknowledges that they have not been  
influenced to any extent whatsoever in executing this AGREEMENT by any other  
PARTY hereto or by any person representing them, or both.

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1           4.     Accordingly, any rule of law (including California Civil Code  
2 Section 1654) or legal decision that would require interpretation of any  
3 ambiguities in this AGREEMENT against the PARTY that has drafted it is not  
4 applicable and is waived.

5           5.     The provisions of this AGREEMENT shall be interpreted in a  
6 reasonable manner to affect the purpose of the PARTIES and this AGREEMENT.

### 7           **AD. Headings**

8           The various headings and numbers herein, the grouping of  
9 provisions of this AGREEMENT into separate clauses and paragraphs, and the  
10 organization hereof are for the purpose of convenience only and shall not  
11 limit or otherwise affect the meaning hereof.

### 12           **AE. Acceptance**

13           Unless otherwise agreed to in writing by COUNTY/DISTRICT  
14 acceptance shall not be deemed complete unless in writing and until all the  
15 services have actually been received, inspected, and tested to the  
16 satisfaction of COUNTY/DISTRICT.

### 17           **AF. Consent to Breach not Waiver**

18           1.     No term or provision of this AGREEMENT shall be deemed waived  
19 and no breach excused, unless such waiver or consent shall be in writing and  
20 signed by the party claimed to have waived or consented.

21           2.     Any consent by any party to, or waiver of, a breach by the  
22 other, whether express or implied, shall not constitute consent to, waiver  
23 of, or excuse for any other different or subsequent breach.

### 24           **AG. Remedies Not Exclusive**

25           The remedies for breach set forth in this AGREEMENT are cumulative  
26 as to one another and as to any other provided by law, rather than exclusive;

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1 and the expression of certain remedies in this AGREEMENT does not preclude  
2 resort by either party to any other remedies provided by law.

## 3 AH. Independent Contractor

4 1. A-E shall be considered an independent contractor and neither  
5 A-E, its employees, nor anyone working under A-E shall be considered an agent  
6 or an employee of COUNTY.

7 2. Neither A-E, its employees nor anyone working under A-E shall  
8 qualify for workers' compensation or other fringe benefits of any kind  
9 through COUNTY.

## 10 AI. Bills and Liens

11 A-E shall pay promptly all indebtedness for labor, materials and  
12 equipment used in performance of the work. A-E shall not permit any lien or  
13 charge to attach to the work or the premises, but if any does so attach, A-E  
14 shall promptly procure its release and, in accordance with the requirements  
15 of the indemnification paragraph above, indemnify, defend, and hold  
16 COUNTY/DISTRICT harmless and be responsible for payment of all costs,  
17 damages, penalties and expenses related to or arising from or related  
18 thereto.

## 19 AJ. Changes

20 A-E shall make no changes in the work or perform any additional  
21 work without the COUNTY'S/DISTRICT'S specific written approval.

## 22 AK. Assignment

23 The terms, covenants, and conditions contained herein shall apply  
24 to and bind, the heirs, successors, executors, administrators and assigns of  
25 the parties. Furthermore, neither the performance of this AGREEMENT nor any  
26 portion thereof may be assigned or sub-contracted by A-E without the express

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1 written consent of COUNTY/DISTRICT. Any attempt by A-E to assign or sub-  
2 contract the performance or any portion thereof of this agreement without the  
3 express written consent of COUNTY/DISTRICT shall be invalid and shall  
4 constitute a breach of this AGREEMENT.

## 5 AL. Changes in Ownership

6 A-E agrees that if there is a change or transfer in ownership of  
7 A-E's business prior to completion of this AGREEMENT, the new owners shall be  
8 required under terms of sale or other transfer to assume A-E's duties and  
9 obligations contained in this AGREEMENT and complete them to the satisfaction  
10 of COUNTY/DISTRICT.

## 11 AM. Force Majeure

12 A-E shall not be assessed with damages or unsatisfactory  
13 performance penalties during any delay beyond the time named for the  
14 performance of this AGREEMENT caused by any act of God, war, civil disorder,  
15 employment strike or other cause beyond its reasonable control, provided A-E  
16 gives written notice of the cause of the delay to COUNTY/DISTRICT within  
17 thirty-six (36) hours of the start of the delay and A-E avails himself of any  
18 available remedies.

## 19 AN. Compliance with Laws

20 1. A-E represents and agrees that services to be provided under  
21 this AGREEMENT shall fully comply, at A-E's expense, with all standards,  
22 laws, statutes, restrictions, ordinances, requirements, and regulations  
23 (collectively "laws"), including, but not limited to those issued by COUNTY  
24 in its governmental capacity and all other laws applicable to the  
25 PROJECTS/SERVICES at the time PROJECTS/SERVICES are provided to and accepted  
26 by COUNTY/DISTRICT.

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1           2.    A-E acknowledges that COUNTY/DISTRICT is relying on A-E for  
2 such compliance, and pursuant to the requirements of the indemnification  
3 paragraph above, A-E agrees that it shall defend, indemnify and hold  
4 COUNTY/DISTRICT and COUNTY/DISTRICT INDEMNITEES harmless from all liability,  
5 damages, costs and expenses arising from or related to a violation of such  
6 laws.

### 7           AO.   Calendar Days

8           Any reference to the word "day" or "days" herein means calendar  
9 day or calendar days, respectively, unless otherwise expressly provided.

### 10          AP.   Breach of Contract

11          The failure of the A-E to comply with any of the provisions,  
12 covenants or conditions of this AGREEMENT shall be a material breach of this  
13 AGREEMENT. In such event the COUNTY/DISTRICT may, and in addition to any  
14 other remedies available at law, in equity, or otherwise specified in this  
15 AGREEMENT, COUNTY/DISTRICT may:

16           1.    afford the A-E written notice of the breach and ten (10)  
17 calendar days or such shorter time that may be specified in this AGREEMENT  
18 within which to cure the breach;

19           2.    discontinue payment to the A-E for and during the period in  
20 which the A-E is in breach; and

21           3.    offset those monies disallowed pursuant to the above, against  
22 any monies billed by the A-E but yet unpaid by the COUNTY.

### 23          AQ.   Default

24           1.    In the event any equipment or service furnished by the A-E in  
25 the performance of this AGREEMENT should fail to conform to the  
26 specifications therein within one (1) calendar year from the

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1 COUNTY'S/DISTRICT'S acceptance of the equipment or service, or any  
2 performance period specifically specified within the specifications or  
3 AGREEMENT, whichever is greater, the COUNTY/DISTRICT may reject same, and it  
4 shall become the duty of the A-E to reclaim and remove the items without  
5 expense to the COUNTY/DISTRICT and to immediately replace all such rejected  
6 equipment or service with others conforming to such specifications, provided  
7 that should the A-E fail, neglect or refuse to do so within one hundred and  
8 twenty (120) calendar days, the COUNTY/DISTRICT shall have the right to  
9 purchase on the open market a corresponding quantity of any such equipment or  
10 service and to deduct from any monies due or that may thereafter become due  
11 to the A-E the difference between the price specified in this AGREEMENT and  
12 the actual cost to the COUNTY/DISTRICT.

13           2. In the event the A-E shall fail to make prompt delivery as  
14 specified of any equipment or service, the same conditions as to the rights  
15 of the COUNTY/DISTRICT to purchase on the open market and to reimbursement  
16 set forth above shall apply, except as otherwise provided in this AGREEMENT.

17           3. In the event of the cancellation of this AGREEMENT, either in  
18 whole or in part, by reason of the default or breach by the A-E, any loss or  
19 damage sustained by the COUNTY/DISTRICT in procuring any equipment or service  
20 which the A-E agreed to supply under this AGREEMENT shall be borne and paid  
21 for by the A-E.

22           4. Default shall include failure to carry out any of the  
23 requirements of this AGREEMENT, including, but not limited to not providing  
24 enough properly skilled workers or proper materials, persistently  
25 disregarding laws and or ordinances, not proceeding with the  
26 PROJECTS/SERVICES as agreed to herein, or otherwise substantially violating

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1 any provision of this AGREEMENT.

2 5. Upon termination of the AGREEMENT with A-E, the  
3 COUNTY/DISTRICT may begin negotiations with a third-party A-E to provide  
4 goods and/or PROJECTS/SERVICES as specified in this AGREEMENT.

5 6. The right of either party to terminate this AGREEMENT  
6 hereunder shall not be affected in any way by its waiver of or failure to  
7 take action with respect to any previous default.

8 **AR. Conflict of Interest Contractor Personnel**

9 1. The A-E shall exercise reasonable care and diligence to  
10 prevent any actions or conditions that could result in a conflict with the  
11 best interests of the COUNTY/DISTRICT. This obligation shall apply to the A-  
12 E; the A-E's employees, agents, and relatives; sub-tier contractors; and  
13 third parties associated with accomplishing work and PROJECTS/SERVICES  
14 hereunder.

15 2. A-E's efforts shall include, but not be limited to  
16 establishing precautions to prevent its employees or agents from: making,  
17 receiving, providing or offering gifts, entertainment, payments, loans or  
18 other considerations which could be deemed to appear to influence individuals  
19 to act contrary to the best interests of the COUNTY/DISTRICT.

20 **AS. Title to Data**

21 1. All materials, documents, data or information obtained from  
22 the COUNTY/DISTRICT data files or any COUNTY/DISTRICT medium furnished to the  
23 A-E in the performance of this AGREEMENT, will at all times remain the  
24 property of the COUNTY/DISTRICT. Such data or information may not be used or  
25 copied for direct or indirect use by the A-E after completion or termination  
26 of this AGREEMENT without the express written consent of the COUNTY/DISTRICT.

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1           2. All materials, documents, data or information, including  
2 copies furnished by COUNTY/DISTRICT and loaned to A-E for his temporary use,  
3 must be returned to the COUNTY/DISTRICT at the end of this AGREEMENT unless  
4 otherwise specified by the DIRECTOR.

## 5           AT. Availability of Funds

6           The obligation of COUNTY/DISTRICT is subject to the availability  
7 of funds appropriated for this purpose, and nothing herein shall be construed  
8 as obligating the COUNTY/DISTRICT to expend or as involving the  
9 COUNTY/DISTRICT in any contract or other obligation for future payment of  
10 money in excess of appropriations authorized by law.

## 11          AU. Waiver of Jury Trial

12          Each PARTY acknowledges that it is aware of and has had the  
13 opportunity to seek advice of counsel of its choice with respect to its  
14 rights to trial by jury, and each PARTY, for itself and its successors,  
15 creditors, and assigns, does hereby expressly and knowingly waive and release  
16 all such rights to trial by jury in any action, proceeding or counterclaim  
17 brought by any PARTY hereto against the other (and/or against its officers,  
18 directors, employees, agents, or subsidiary or affiliated entities) on or  
19 with regard to any matters whatsoever arising out of or in any way connected  
20 with this AGREEMENT and/or any other claim of injury or damage.

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IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT on the dates opposite their respective signatures:

Geosyntec Consultants, Incorporated

Date: \_\_\_\_\_

By \_\_\_\_\_  
Vice President/Principal

(If a corporation, the document must be signed by two corporate officers. The 1<sup>st</sup> must be either Chairman of the Board, President or any Vice President.)

Date: \_\_\_\_\_

By \_\_\_\_\_  
Chief Financial Officer

(If a corporation, the 2nd signature must be either the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.)

County of Orange

Date: \_\_\_\_\_

By \_\_\_\_\_  
Deputy Purchasing Agent

Orange County Flood Control District

Date: \_\_\_\_\_

By \_\_\_\_\_  
Deputy Purchasing Agent

Date: 11/15/07

APPROVED AS TO FORM:  
COUNTY COUNSEL

By Daniel P. Jones  
Deputy

DISTRICT Agreement w/Prof.Liab.

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## EXHIBIT A

### SCOPE OF WORK "ON-CALL" Architect-Engineer Services for 2007 Santiago Fire Burn Area – OC Parks Lands and Downstream Areas

#### DESCRIPTION OF THE ARCHITECT-ENGINEER SERVICES

##### I. INTRODUCTION

The County of Orange ("COUNTY") and the Orange County Flood Control District ("DISTRICT"), sometimes collectively referred to as "COUNTY", require specialized post-fire engineering resources to meet workload demands and commitments to protect OC Parks resources, downstream areas, and public health, safety and welfare for impacts related to the 2007 Santiago Fire Incident ("FIRE"). The FIRE burned approximately 90% of the vegetation in Limestone Canyon and Whiting Ranch Wilderness Park, as well as Modjeska Canyon Nature Preserve. In order to supplement its existing staff resources, the COUNTY requires "on-call" Architect-Engineer services on an "as-needed" basis. No specified amount of work is guaranteed to the A-E.

##### II. PURPOSE

The purpose of this Scope of Work is to describe the "on-call" professional and sub-professional engineering support services to be provided as part of the AGREEMENT, and to describe the administrative process of the AGREEMENT. Support services may include, but are not limited to planning, engineering (hydrologic, hydraulic, structural, geotechnical, sediment transport, utility, corrosion, and right of way), CADD and hand drafting, hazardous materials assessment ("HMA"), surveying, report writing, environmental ("CEQA/NEPA") and regulatory permit services, and cost/quantity estimation.

##### III. DESCRIPTION OF WORK

###### A. Planning and Engineering

The planning and engineering support services may include a specific service such as preparing post-fire response plans, hydrology/hydraulic ("H&H") analysis, right-of-way engineering ("ROWE"), HMA, etc. or in combination with other planning and engineering services for preparation of a comprehensive report, such as: a project report, technical study, or preparation of plans, specifications and estimates ("PS&E"). Such specific services may include, but not be limited to the following:

###### 1. Post-Fire Response

The work to be performed by A-E may include, but shall not be limited to the following:

- a Provide "Strike Team" engineering personnel to rapidly mobilize, assess critical areas, identify appropriate Best Management Practices ("BMPs"), provide quantity and cost estimates, oversee construction of BMPs, monitor BMPs following storm events, provide field support to COUNTY and contracted personnel implementing BMPs.

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- b Develop Post-Fire Response Plan(s) that identify(ies) areas (on- and off-site) that are susceptible to damage associated with fire impacts and to identify runoff, erosion, and sediment control measures (BMPs) to provide interim protection for the burned areas. Work associated with preparing the Post-Fire Response Plan includes, but is not limited to the following work:

(1) Satellite Imagery, Resource Review and Computational Evaluation

Provide qualitative modeling of the increased potential for erosion as a result of the FIRE using multi-spectral high resolution pre- and post-satellite imagery and Spatial Analyst extension for ArcMap 9.2. Factors that will be considered in the model include steepness of slope, soil type, and burn severity. Each factor will be scored and the total points will be combined to form a relative erodability index. This analysis will include relevant factors (e.g., soil erodability, vegetation mortality, ground cover, and slope steepness) to provide an overview of the entire affected area. The index will be used to quickly identify risk prone areas and to identify areas that require further analysis/assessments. Other available resources will be reviewed to evaluate and identify areas with increased potential for post-fire hazards and impacts. Resources will be reviewed including aerial photographs, additional GIS data, topographic maps that include geologic features, vegetation types, hydrologic information, watershed boundaries, burn areas, soil types, and storm water conveyance features, and any burned area evaluation reports. This information will be used to assess the hazards and potential impacts to valuable natural resources including riparian corridors, unique habitat and points of interest within the park and/or off-site areas, and man-made features including structures, trails, and storm water conveyance structures. Areas identified to be the most susceptible to impacts will be identified as high priority sites and will be targeted for field reconnaissance. Use of post-fire satellite imagery may be used to develop accurate base maps that will be used during the assessment process and field surveys and to accurately place engineered structures and site-specific hazard mitigation measures.

(2) Field Reconnaissance and Development of High Priority Sites

Perform Field reconnaissance using field teams (plus COUNTY staff as necessary/applicable/available) in areas identified to be high priority sites based on the information obtained during earlier reconnaissance. The purpose of the field reconnaissance will be to identify potential hazards and impacts (e.g. flood and erosion hazards) that represent a threat to life and property, to refine estimates of burn severity and watershed response, assess site conditions (e.g. riparian areas, soils, vegetation, structures, drainage facilities) and to further refine site prioritization. The A-E shall provide the teams with Post-Fire Hazard Evaluation Forms, designed to obtain consistent evaluations of the burned areas. The field teams will be equipped by the A-E with ruggedized personal digital assistants (PDAs; or equivalent) to more accurately delineate burn areas and assist in data collection and identify appropriate mitigation measures. Digital cameras (provided by A-E for A-E's employees and COUNTY for COUNTY employees) will also be used to document the field surveys.

The following information may also be gathered during the field reconnaissance to characterize the burn area:

- Verification of the locations and conditions of storm drainage facilities;

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- Observations of the site conditions in watersheds affected by the fire;
- Observations of the conditions of surviving structures and drainage facilities;  
and
- Observations of areas of potential hazards and impacts.

In addition to gathering information on site conditions, assessments of potential hazards by the field teams may be conducted, as determined by the A-E and/or the COUNTY, in the following categories:

- Landslides;
- Mudflows/debris flows/high sediment loads;
- Flooding;
- Rockfalls; and
- Retaining structure damage.

The field teams will also relate the potential hazards to the following five categories of impacts:

- Public health and safety;
- Public and private property damage;
- Damage to infrastructure;
- Transportation route damage (arterial access); and
- Damage to receiving waters.

The results of the field reconnaissance will be used by A-E to develop a matrix of hazards and impacts, and to further prioritize sites, so that resources and funding can be focused by the COUNTY to where they are needed the most. Site hazards will be evaluated by the A-E in terms of a subjective "High", "Medium", or "Low" ranking, based on the five categories of potential hazards (landslides; high sediment loads; flooding; rockfall; and, retaining structure damage) and the five categories of impacts (public health and safety; public and private property damage; damage to infrastructure; transportation route damage; and, damage to receiving waters) evaluated during the field reconnaissance. The evaluation will consider the effects of potential hazards by asking the question "Given a significant storm event, would you have high, medium or low concern for the specific impact?" For the categories of "Public Health and Safety" and "Public and Private Property Damage," the key issue will be the presence of downstream properties that would be affected by hazards with high likelihood. "Damage to Infrastructure" typically, but not always, will be associated with storm drainage facilities. "Transportation Route" impact will primarily be an evaluation of the possibility that access will be cut off or a disruption of traffic flow will occur.

Based on the results of the preliminary field reconnaissance and data evaluation, the A-E may, upon consultation with COUNTY, conduct follow-up site visits to perform more detailed hazard mapping, and/or to further evaluate specific hazard and impact issues. A list of high priority sites will be developed by the A-E based on the information obtained during the assessment. Post-Fire Response Plan Report

A Post-Fire Response Plan Report provides information to prioritize hazard areas and mitigation efforts. The report prepared by the A-E will evaluate and summarize the data gathered by the project teams during the first two phases and will describe the process used to identify high priority sites. The report will include a brief description of all sites that were identified having a high priority to experience problems during storm events that could adversely impact public

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health and safety, result in damage to public or private property, infrastructure, transportation routes, or adversely impact receiving waters. The report will include descriptive text outlining the A-E's methodology, analyses, and results, which will include maps and photographs of identify high priority sites, and proposed mitigation measures (i.e., proposed mitigation measures mapped on the high priority site maps/figures to guide COUNTY staff in implementation of the measures). Candidate post-fire mitigation measures will be developed for identified high priority sites based on A-E's erosion and sediment control technology performance expertise and previous post-fire mitigation experience together with input from the COUNTY. Post-fire mitigation measures will include sediment and debris control measures, erosion control (soil stabilization) measures, drainage structures construction and repairs, and other structural works. Additionally, institutional measures, such as evacuations, warnings, and emergency crew mobilization will be identified as necessary. Installation of the mitigation measures selected for the high priority areas will be evaluated by the COUNTY in consultation with the A-E after submittal of the Post-Fire Response Plan. It is anticipated that labor crews or A-Es will be selected using the following criteria:

- Effectiveness
- Implementation cost
- Long-term cost (maintenance)
- Environmental compatibility
- Regulatory acceptability
- Availability
- Durability
- Suitability for sites
- Feasibility
- Longevity

The severity of the erosion and slope instability potential within the burned areas and the degree of damage that could occur from down-slope delivery of excess runoff, ash, debris, and sediment necessitates the use of the best available and most cost-effective technology. In addition, the wide range of conditions requires a variety of solutions designed to address the specific erosion or stability hazards under site-specific circumstances. If resources (COUNTY and/or DISTRICT budget, as appropriate) allows, cost estimates will be prepared for the proposed mitigation measures that could include labor, mobilization, equipment, materials, installation, and finishing works.

- (3) Coordinate with OC Parks Project Manager and/or DISTRICT staff as appropriate and other critical RDMD staff, internal and external stakeholders, regulatory agencies and non-profit land conservancies or land management entities.

## 2. Hydrology

The work to be performed by A-E may include, but shall not be limited to, performing hydrologic studies in accordance with the 1986 Orange County Hydrology Manual and its Addendum, or other criteria as specified by the COUNTY. These tasks may include performing hydrography studies and reviewing existing hydrologic data/studies provided by COUNTY/DISTRICT. The

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work shall be performed utilizing HEC-1 software, WMS software, manual hand computations, AES analysis or similar. A-E shall perform such hydrology related work to produce a final hydrology report(s), which includes a summary of hydrologic information, a tabulation of the drainage areas, return frequencies and discharges for the watershed and other related information. All reports will need to be submitted for review and approval by COUNTY/DISTRICT, as appropriate, staff.

### 3. Hydraulic Engineering

A-E as required, will perform preliminary and/or design level hydraulic analyses of flood control facilities and local drainage systems using, but not limited to, HEC-RAS (HEC-2), WSPG, Storm Program, Microsoft Excel, and manual "hand" calculations. The analysis requested may include, but shall not be limited to, existing deficiency and capacity studies, development of design water surface elevations, development of preliminary and ultimate facility design alternatives, construction phasing schedules, and preparation of PS&E. Hydraulic controls for tributary channels and COUNTY committed water surface elevations (if not requested as part of A-E's duties) will be provided where available. Available reports and preliminary engineering studies performed by COUNTY/DISTRICT will be provided to A-E.

Geotechnical, survey, environmental, utility, and record drawing information (if not part of A-E's requested services and if available) will be provided by COUNTY.

The work to be performed by A-E may include, but is not limited to the following:

- a Hydraulic analysis and generation of hydraulic gradelines (HGL) for existing and future condition design alternatives. Preparation of exhibits indicating the HGL on plans, and profile sheets for existing and future condition alternatives to be presented in report(s).
- b Hydraulic analyses for conveyance of design discharges through existing bridge and culvert structures, including: street, freeway and railroad crossings.
- c Identification of local drainage facilities and catch basins, including a listing of major inlets and committed water surface elevations.
- d Determination of capacities of local drainage facilities.
- e Identification of alternatives, including channel alignment adjustments and right-of-way requirements.
- f Preparation of material quantity and cost estimates for each alternative that is studied with unit prices identified. Comparisons between the costs of alternatives should be included where appropriate.
- g Identification of major utilities, both existing and proposed (if available, may be furnished by COUNTY), and utility conflicts of those facilities specifically requiring relocation (with the party responsible for relocation also being identified). Utility relocation costs attributable to COUNTY shall be included in cost estimate summaries.

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- h A general discussion of soil conditions and any unique findings. Of particular interest are: ground water, perched water tables and the foundation conditions for the facilities.
- i Identification of known environmental considerations related to each channel design alternative.
- j Identification of any existing agreement obligations or need for new agreements required, permits needed for approval from other agencies or cities.
- k Identification of unique maintenance problems associated with the alternatives and determination of appropriate maintenance costs based on the project report or A-E's independent findings.
- l Recommendation of a preferred alternative for ultimate improvements, and identification of a possible and logical sequence of implementation (aka: construction phasing).
- m Identification, analysis, recommendation, and/or design of existing and/or proposed retarding, retention, water quality, and/or sediment basin alternatives.
- n A determination of existing condition and ultimate condition floodplains in a manner meeting the approval of COUNTY and the Federal Emergency Management Agency (FEMA).
- o Attendance at public meetings as required by COUNTY/DISTRICT to gather information from residents and local agencies concerning local flooding and to assist COUNTY/DISTRICT in answering questions. A-E may be required to conduct public or in-house seminars for COUNTY/DISTRICT staff and prepare public presentations.
- p Preparation of Plans and Special Provisions in accordance with the COUNTY's/DISTRICT's Design Manuals and other approved publications as needed to perform the work in a manner meeting the approval of COUNTY/DISTRICT staff. A-E shall utilize the RDMD Specifications Library and "Boiler Plates", and shall prepare the PROJECT's contract documentation to conform to the current "Reduced Plans and Special Provisions" format. Boiler Plate specifications will be provided by COUNTY/DISTRICT.
- q Preparation of final design level hydraulic, civil, structural, hydrologic, geotechnical, sediment transport, utility, corrosion, and right of way engineering in accordance with COUNTY's/DISTRICT's Design Manual and other COUNTY/DISTRICT specified criteria (CalTrans, Corps of Engineers, etc.).
- r During the advertisement, award and construction phase of the project, A-E shall make itself available to COUNTY/DISTRICT personnel to answer questions regarding the PROJECT design, and preparation of the plans and specifications.
- s Field and/or plant inspection of construction and/or fabrication activity for its conformance to the Plans and Special Provisions

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t Preparation and submission of computer CDs or DVDs containing all relevant information and computer runs of all alternatives studied.

## 4. Geotechnical

COUNTY shall furnish previous soil investigation reports or studies to A-E where available. A-E shall independently determine if further soil investigations are required, and shall discuss the number, locations and types of soil tests needed with COUNTY. In the event of disagreement, COUNTY's decision shall be final. If COUNTY determines that additional geotechnical investigations are required, A-E may perform such work or employ special consultants to accomplish the work.

The geotechnical services may include, but not limited to: design and recommendations for mechanically stabilized earth (MSE) retaining walls, soil nailing, soil reinforcement, etc.; development and implementation of field investigation plan involving field data collection as deemed necessary; development of laboratory testing program to conduct soils surface and subsurface characterization tests as applicable to the needs of the project and performance of such tests; development of seismic analysis and design criteria in accordance with code or other design requirements; recommendations for allowable soil bearing pressure and design of foundations; embankment and excavation procedures; settlement and consolidation analyses; compaction recommendations; lateral, active, and passive earth pressures; dewatering, subsidence, landslide mapping, slope stabilization, sudden drawdown, soil corrosion, erosion, sedimentation control and other applicable design criteria as deemed necessary.

## 5. Structural Engineering

A-E may be required as necessary to perform structural design for purposes such as final plans and specifications. Designs include, but may not be limited to retaining walls, trapezoidal and rectangular concrete channels, reinforced concrete box conduits, sheet piles, bearing piles, tie-backs and deadmen, bridge crossings, pump stations and appurtenant structures, grade stabilizers, drop structures, and spillways including transition and tie-in details.

A-E shall conform to the requirements, standards and guidelines of the Orange County Flood Control District ("OCFCD") Manual, current edition, including all addenda thereto, and/or additional design criteria as specified by COUNTY staff.

## B. Environmental Assessment

A-E may be required to: provide a biological assessment and an environmental analysis of the impact of proposed project alternatives on vegetation and wildlife in sufficient detail to provide insight into potential impacts and associated mitigation measures for each alternative; provide file documents required for environmental determination under the California Environmental Quality Act (CEQA) or National Environmental Protection Act (NEPA) with RDMD/Planning & Development Services Division/Environmental Planning Section; and perform environmental analyses at a conceptual level to determine whether or not a formal Environmental Impact Report (EIR) may be required. Biological assessments, environmental analyses, and report preparation shall be in a format suitable for submittal to

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the California Department of Fish & Game, the Army Corps of Engineers/U. S. Fish and Wildlife Service, California Regional Water Quality Control Board, and/or California Coastal Commission.

## C. Permits

A-E may be required to prepare and submit permit applications and process these permits through Cities, CalTrans; regulatory agencies, such as: the California Department of Fish and Game, the U.S. Army Corps of Engineers, the Coastal Commission and any other applicable regulatory permitting agency. The work may include, but is not limited to: preparation of permit applications, submittal of permits, coordination between COUNTY and the regulatory agencies, and attendance at meetings. No such permit related work shall be accomplished with any of the Agencies without first obtaining COUNTY's/DISTRICT's, as appropriate, approval on matters relevant to such permits.

## D. Surveys

COUNTY will furnish existing as-built plans and/or previous field data available in its files. For work prepared by A-E, A-E shall be responsible for determining if additional surveys such as cross-sections, topography and spot elevations are required. In the event of disagreement on the justification, the decision of COUNTY shall be final. COUNTY may request additional survey services related or unrelated to work conducted by A-E. If COUNTY determines that additional survey data are required, A-E may perform such work or employ special consultants to accomplish the work. All costs associated with subcontracting for such services will be subject to the limitations of Section A, paragraph 3 of the AGREEMENT. All surveys obtained from outside sources shall be stamped by a Registered Land Surveyor and be performed to the standards and criteria of the County of Orange Surveyor.

## E. Right of way services

A-E may be required to prepare, acquire, and/or review legal descriptions, record of survey, easement deeds, Title Insurance, and other related right-of-way documents pertinent to the project. A-E's services may also be required to prepare, acquire, and/or review documents necessary to acquire rights of way necessary for the implementation of COUNTY/DISTRICT projects. If COUNTY/DISTRICT, as appropriate, determines that such right of way and real estate services are required, A-E may perform such work or employ special consultants to accomplish the work. All costs associated with subcontracting for such services will be subject to the limitations of Section A, paragraph 3 of the AGREEMENT. All right of way and real estate services obtained from outside sources shall conform to the standards and practices of the RDMD/Right of Way Engineering Section and/or RDMD/Real Estate Services Section.

If COUNTY/DISTRICT determines that such utility services are required, A-E may perform such work or employ special consultants to accomplish the work. All costs associated with subcontracting for such services will be subject to the limitations of Section A, paragraph 3 of the AGREEMENT. All utility services obtained from outside sources shall conform to the standards and practices of the RDMD/Utilities Section.

## F. Hazardous Waste

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A-E may be required to conduct an environmental site assessment for the purpose of hazardous material assessment, including but not limited to review previous environmental documents pertinent to the project, field investigation, preparation of sampling plan, collection of soil and groundwater samples, analyzing soil and groundwater samples for possible contamination, and preparation of report (HMA Phase I and/or Phase II) and recommendation. The task includes obtaining permit and coordinating with utility companies and other agencies (CalTrans, cities, etc.). A-E shall recommend methods for possible waste and ground water disposal approved by OSHA and other agencies. A-E should prepare the most efficient and cost effective method of disposal.

If COUNTY/DISTRICT, as appropriate, determines that such HMA services are required, A-E may perform such work or employ special consultants to accomplish the work. All costs associated with subcontracting for such services will be subject to the limitations of Section A, paragraph 3 of the AGREEMENT. All HMA services obtained from outside sources shall conform to the standards and practices of the RDMD/Environmental Resources Section.

## G. Exhibits and Appendices

The A-E may be required to prepare the following items:

1. Plan and profile sheets exhibits for the original conditions as well as all alternatives reflecting hydraulic grade lines for existing capacity and 100-year storm discharges. Construction plans and/or detail exhibits sufficient to conduct design seminars and public meetings. All plans and exhibit sheets shall conform to the RDMD CADD guidelines and standards, and shall be computer plotted on mylar or ink drawn on standard 22" X 36" mylar sheets. A-E will reproduce the plans to 1/2 size (11"x17") for complete legibility at the reduced size. A-E may prepare plans on mylar with topography screened on plan view. A title sheet with index reference shall be provided.
2. Pertinent photographs to supplement information in the project report, project study, and/or design report.
3. An 8-1/2 x 11" location map and vicinity map.
4. Cost comparison of channel design alternatives and/or engineer's quantity and cost estimates.
5. Right-of-way maps, if necessary.

## H. Design Requirements and Criteria

### I. Engineering

A-E shall conform to the requirements, criteria, standards, and guidelines of the Orange County Flood Control District Design Manual, including all Addenda thereto, Orange County Local Drainage Manual, the US Army Corps of Engineers, Engineer Manuals (where applicable), and all references and standards referred to therein. In addition to the above, A-E may be required to use other manuals such as the Flood Insurance Study Guidelines and Specifications for Study A-Es, FEMA 37 and other such manuals where appropriate. All manuals used shall be the most up-to-date and current edition. Any deviation from the above listed materials shall be approved by COUNTY/DISTRICT staff prior to start of work and/or notice to proceed.

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Computer programs used for hydraulic modeling, such as HEC-RAS (HEC-2), or WSPG shall be compatible with COUNTY's computer equipment, and A-E shall receive COUNTY/DISTRICT staff approval of any program before it is used.

Computer programs used for structural engineering shall be compatible with COUNTY's/DISTRICT's computer equipment and A-E shall receive COUNTY/DISTRICT staff approval of any program before it is used.

## 2. Hydrology

A-E shall conform to the requirements, standards, and guidelines of the Orange County Hydrology Manual, including all Addenda thereto and all references and standards referred to therein.

## 3. Drafting

Plan and profile sheets shall be drawn using the criteria as set forth by COUNTY/DISTRICT staff. A-E may only reference on the plans those standard details as included in the RDMD Standard Plans, latest Edition. All other standard plans to be referenced must be approved by COUNTY/DISTRICT staff. A-E shall submit a CD or DVD disk containing all plans and profile sheets which shall be compatible with the CAD drafting system used by COUNTY/DISTRICT and shall be suitable for inclusion in engineering reports.

## 4. General

All work to be performed for this AGREEMENT must be accomplished under the direct supervision and responsible charge of a Professional Civil Engineer, Mechanical Engineer, and/or Electrical Engineer registered by the Department of Consumer Affairs in the State of California. The Professional Engineer shall affix his/her stamp and sign all to the engineering plans, analyses, studies, reports, and any other engineering documents prepared.

A-E shall be responsible for obtaining all the above-listed references and manuals, except where provided for in Section V, "COUNTY Supplied Items," of this scope of work.

## IV. SCHEDULE OF WORK/MEETINGS

A-E shall submit a schedule for completion of all required work along with a list of deliverables to COUNTY/DISTRICT within one week of being notified by COUNTY/DISTRICT, as appropriate, to begin work. The schedule shall be approved by the Director of RDMD or his designee. This schedule shall allow sufficient time and include meetings with RDMD staff to review the work progress, provide technical and policy direction, resolve problems and insure adherence to the work completion schedule. Within five working days of each meeting, A-E shall submit a memorandum summarizing the results of the meeting to RDMD staff for concurrence.

## V. COUNTY SUPPLIED ITEMS

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COUNTY shall provide to A/E the following if and/or when available:

1. Record Drawings,
2. Survey information provided by County Surveyor,
3. Geotechnical information on file at the County, relating to specific channels,
4. Utility information regarding specific channels, and
5. Right-of-way maps if necessary.

# ATTACHMENT A

Exhibit B  
Agreement No. K100000094

## GEOSYNTEC CONSULTANTS RATE SCHEDULE COUNTY OF ORANGE FIRE RESPONSE

<u>Engineer/Scientist</u>	<u>Rate/Hour</u>
Staff Professional	\$ 99
Senior Staff Professional	\$114
Professional	\$132
Project Professional	\$147
Senior Professional	\$164
Senior Project Manager	\$180
Associate	\$192
Project Director	\$203
Principal	\$220
 <u>Field Services</u>	
Engineering Technician	\$ 63
Senior Engineering Technician	\$ 71
Field Manager	\$ 81
Site Manager	\$102
Field Superintendent	\$109
Construction Manager	\$115
 <u>Design, Graphical, and Administrative Services</u>	
Designer	\$108
Senior Drafter/Senior CADD Operator	\$ 95
Drafter/CADD Operator/Artist	\$ 81
Administrative Assistant	\$ 69
Tech Word Processor	\$ 61
Clerical	\$ 55
 <u>General</u>	
Direct Expenses	Cost plus 9%
Subcontract Services	Cost plus 12%
Specialized Computer Applications (per hour)	\$ 24
Personal Automobile (per mile)	Government rate

Rates will be adjusted following the term of the two year contract, if extended, based on the US Department of Labor,  
Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers  
Rates for field equipment, health and safety equipment, and graphical supplies presented upon request.

# ATTACHMENT A

Exhibit C  
Agreement No. K1000000094

## County of Orange Child Support Enforcement Contract Certification

**INSTRUCTIONS:**

UPON NOTIFICATION OF SELECTION FOR CONTRACT AWARD/REQUEST FOR RENEWAL, COMPLETE PART I AND PART II.  
RETURN COMPLETED FORM TO: RDMD/HBP DESIGN, 300 N. FLOWER ST., Room 427, SANTA ANA, CA. 92703.

### PART I

**A. In case of an individual contractor, provide:**

His/her name, date of birth, Social Security number, and residence address:

**B. In the case of contractor doing business in a form other than as an individual, provide:**

The name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity; OR

**C. \*If your firm is a non-profit entity please indicate: "N/A, Non-Profit Organization" OR If no single person owns an interest of 10 percent or more please state this fact below.**

(Please note: Part II "Certification" must also be signed and returned)

1. **Name:** \_\_\_\_\_

D.O.B. \_\_\_\_\_

SSN No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

2. **Name:** \_\_\_\_\_

D.O.B. \_\_\_\_\_

SSN No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

### PART II

#### CERTIFICATION (PART I MUST ALSO BE COMPLETED)

I certify that \_\_\_\_\_ is in full compliance with all applicable Federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract Number: \_\_\_\_\_ with the County of Orange.

I understand that failure to comply shall constitute a material breach of the contract and the failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

AUTHORIZED SIGNATURE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_

TITLE \_\_\_\_\_

# ATTACHMENT A

Exhibit D  
Agreement No. K100000094

## EDD INDEPENDENT CONTRACTOR REPORTING REQUIREMENTS

Effective January 1, 2001 the County of Orange is required to file federal Form 1099-Misc for services received from a "service provider" to whom the COUNTY pays \$600 or more or with whom the COUNTY enters into an AGREEMENT for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term "service provider" is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as "an individual who is not an employee of the service recipient for California purposes and who received compensation or executes an AGREEMENT for services performed for that service recipient within or without the state." The term is further defined by the California Employment Development Department to refer specifically to independent CONTRACTORS. An independent CONTRACTOR is defined as "as an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes an AGREEMENT for services performed for that ... government entity either in or outside of California."

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at [www.edd.ca.gov/txicr.htm](http://www.edd.ca.gov/txicr.htm).

To comply with the reporting requirements of, County procedures for contracting with independent CONTRACTORS mandate that the following information be completed and forwarded to the contracting agency/department immediately upon request:

First Name, Middle Initial, and Last Name  
Social Security Number  
Address  
Start and expiration dates of contract  
Amount of contract

### PART I

First Name _____	Middle Initial _____	Last Name _____
SSN# _____		Date of Birth _____
Address _____		
Contract No. _____		
Start Date _____		Expiration Date _____
Dollar value of contract _____		

### PART II

#### CERTIFICATION (PART I must also be completed)

I certify that \_\_\_\_\_ is in full compliance with all applicable Federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract Number: \_\_\_\_\_ with the County of Orange.  
I understand that failure to comply shall constitute a material breach of the contract and the failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

AUTHORIZED SIGNATURE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_

TITLE \_\_\_\_\_