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**STRIKETHOUGH**  
**Attachment A**

Agreement No. OCP10-09  
Revised 4-1-09

A G R E E M E N T

1  
2       **THIS AGREEMENT**, hereinafter referred to as "AGREEMENT" for purposes of  
3 identification hereby numbered OCP10-09, and dated \_\_\_\_\_ day of  
4 \_\_\_\_\_, 20\_\_\_\_\_ is

5       **BY AND BETWEEN**

6                               County of Orange, a political subdivision of  
7                               the State of California, hereinafter  
8                               referred to as "COUNTY"

9       **AND**

10                              Thirtieth Street Architects, Inc, a  
11                              California Corporation,  
12                              hereinafter referred to as "A/E",

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

15   **RECITALS**

16       **WHEREAS**, COUNTY requires professional services to accomplish projects  
17       and/or services ("PROJECTS/SERVICES") as described in "**County of Orange Scope**  
18       **Of Work for On-Call Architect Services,**" hereinafter referred to as "Exhibit  
19       A," attached hereto and incorporated herein by reference; and,

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

24       **NOW, THEREFORE, IT IS AGREED** by and between the parties hereto as  
25       follows:

26       **A. Retainer**

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

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1           2.    A professional, duly registered in the State of  
2 California, who shall be assigned to PROJECTS/SERVICES and whose services are  
3 offered by A/E and accepted by COUNTY is James Wilson, Principal.

4           3.    A/E may employ special consultants/contractors for the  
5 accomplishment of the PROJECTS/SERVICES specified; and, it is agreed that  
6 only the following firms or independent consultants/contractors are to be  
7 employed to provide these PROJECTS/SERVICES, and that the aggregate money  
8 value of their PROJECTS/SERVICES shall not constitute more than forty-nine  
9 percent (49%) of the total amount of PROJECTS/SERVICES required under this  
10 AGREEMENT:

- 11                   a.    RBF Consulting, Civil Engineers
- 12                   b.    RJM Design Group, Inc. Landscape Architects
- 13                   c.    Ann Christoph, Historical LA
- 14                   d.    Structural Focus, Structural Engineers
- 15                   e.    Linwood Engineering Associates, PC, MEP Engineering
- 16                   f.    Geotechnical Solutions, Geotechnical Engineers
- 17                   g.    Linwood Engineering Associates PC, MEP Engineering
- 18                   h.    Graham Design, Interior Design
- 19                   i.    Iskander Associates, Inc. Cost Estimating
- 20                   j.    Coastline Design, Kitchen Design
- 21                   k.    Geotechnical Solutions, Inc.
- 22                   l.    ATC Associates, Environmental Testing
- 23                   m.    Koury Engineering & Testing Inc. Construction Testing

24           4.    Consultants/contractors may be substituted and/or added  
25 by mutual AGREEMENT of A/E and the Director, County of Orange, OC Community  
26 Resources/OC Parks or his designee, hereinafter referred to as "DIRECTOR".

          5.    A/E's employment of independent consultants/contractors shall

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1 not relieve A/E from the performance of its own responsibilities pursuant to  
2 this AGREEMENT. However, all consultants/contractors independently  
3 contracting with COUNTY shall be independently liable to COUNTY for the  
4 performance of the work pursuant to their agreements, and A/E shall have no  
5 liability for work by contractors independently contracting with COUNTY.

6 **B. PROJECTS/SERVICES**

7 1. Description of PROJECTS/SERVICES

8 a. PROJECT/SERVICES to be performed by A/E shall consist of  
9 the work as specified herein and as required in Exhibit A. If in the event  
10 Exhibit A shall be in conflict with any provision of this AGREEMENT, the  
11 wording as set forth in Exhibit A shall prevail.

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

17 2. Design Criteria and Standards

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

20 3. Scheduling

21 a. Concurrently with the work of the AGREEMENT, A/E shall  
22 prepare a progress work schedule and within five (5) working days from the  
23 date of receipt of individual assignments from COUNTY, A/E shall submit to  
24 COUNTY two (2) copies of a progress work schedule which shall delineate dates  
25 of commencement and completion of the various phases of PROJECTS/SERVICES  
26 assignments. A/E schedule shall include required COUNTY review period(s) set  
forth herein. An approved copy of the progress schedule will be returned to

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**Attachment A**

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1 A/E.

2           b.     A/E shall allow at least three (3) working days for COUNTY  
3 review of progress work schedule. In planning work A/E should anticipate and allow  
4 ten (10) working days for COUNTY review of each submittal required in Exhibit A.

5           c.     A/E shall meet on an "as-needed" basis as determined by  
6 DIRECTOR with COUNTY to review progress of work, adherence to progress  
7 schedule, coordination of work, scheduling of seminars, if needed, and to  
8 resolve any problems that may develop.

9           d.     Within three (3) working days of each meeting, A/E  
10 shall prepare a brief memorandum summarizing the results of the meeting and  
11 shall submit it to COUNTY for concurrence.

12           e.     A/E shall complete all the work of PROJECTS/SERVICES  
13 and obtain all approvals by the COUNTY within the time frame indicated in  
14 Exhibit A except A/E shall not be responsible for any delay beyond the  
15 control of A/E.

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

23           **C.     Assistance by COUNTY**

24           1.     COUNTY shall assign an appropriate staff member to work with  
25 A/E in connection with the work of this AGREEMENT. Said staff member's  
26 duties will consist of the giving of advice and consultations, assisting A/E  
in negotiations with other public agencies and private parties, miscellaneous

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**Attachment A**

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1 items which in the judgment of A/E or COUNTY's staff warrant attention, and  
2 all other duties as may be described in Exhibit A.

3           2. All of the above activities, however, shall be the primary  
4 responsibility of A/E to schedule, initiate and carry through to completion.

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

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

11           **E. Non-Discrimination**

12           1. In the performance of the PROJECT, A/E shall  
13 comply with the requirements of the applicable laws and regulations to  
14 permit any subcontractors to employ persons because of the race,  
15 ancestry, physical disability,  
16 status, or sex of such persons.

17           2. A/E acknowledges that A/E shall be an independent  
18 contractor and shall have responsibility for and control over  
19 the details and means for performing the work, provided that  
20 A/E is in compliance with the terms of this AGREEMENT.  
21 Anything in the AGREEMENT which may appear to give  
22 COUNTY the right to direct A/E as to the details of the  
23 performance of the work or to exercise a measure of control  
24 over A/E shall mean that A/E shall follow the desires of  
25 COUNTY, only in the results of the work.

21           **F. Employee Eligibility**

22           1. A/E warrants that all employees performing work under this  
23 State statutes and regulations regarding the employment of aliens, and others  
24 and that all its employees performing work under this AGREEMENT meet the  
25 citizenship or alien status requirement set forth in Federal statutes and  
26 regulations. A/E shall obtain, from all employees performing work hereunder,  
all verification and other documentation of employment eligibility status

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**Attachment A**

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1 required by Federal or State statutes and regulations, including but not  
2 limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324  
3 et seq., as they currently exist and as they may be hereafter amended. A/E  
4 shall retain all such documentation for all covered employees for the period  
5 prescribed by the law.

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

12           **G. Termination of Agreement for Cause**

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

16           2.     A/E shall have the opportunity to cure the alleged breach  
17 prior to termination.

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

22           **H. Termination for Convenience**

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

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1 of the Work to be terminated.

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

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

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

11           5.     A/E shall insert in all subcontracts that the subcontractor  
12 shall stop work on the date of and to the extent specified in a notice of  
13 termination, and shall require subcontractors to insert the same condition  
14 in any lower tier subcontracts. The Amendment extends the term by two additional years to March  
30, 2015 and increases the maximum compensation to \$476,500.

15           **I.     Term and Maximum Compensation of Agreement**

16           The term of this AGREEMENT is for three (3) years commencing on  
17 the date of execution by the Board of Supervisors, with a maximum allowable  
18 compensation of four-hundred thousand dollars (\$400,000).

19           **J.     A/E Compensation for Extra Work**

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

22           1.     For completion and approval of all PROJECTS/SERVICES where  
23 "Extra Work" (defined as changes in approved portions of the PROJECT/SERVICES  
24 required by and ordered in writing by DIRECTOR which changes constitute a  
25 change in or departure from said approved portions of PROJECTS/SERVICES) is  
26 not authorized, compensation including reimbursables shall be described and  
payable as stipulated in Fee Schedule, herein after referred to as "Exhibit  
7



**STRIKETHOUGH**  
**Attachment A**

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1 B", attached hereto and incorporated herein by reference.

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

3                 a.     The amount for Extra Work shall be determined using  
4 Exhibit B.     Extra Work shall be required by and ordered in writing by  
5 DIRECTOR.     DIRECTOR may order Extra Work not to exceed five thousand dollars  
6 (\$5,000) for contracts of less than fifty thousand (\$50,000), and may order  
7 Extra Work up to ten percent (10%) for contracts not exceeding two hundred  
8 fifty thousand dollars (\$250,000).     For contracts greater than two hundred  
9 fifty thousand dollars (\$250,000), Extra Work shall not exceed twenty-five  
10 thousand dollars (\$25,000) plus one percent (1%) of the original contract  
11 amount in excess of two hundred fifty thousand dollars (\$250,000).     In no  
12 case shall Extra Work exceed one hundred thousand dollars (\$100,000).

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

16           3.     For partial completion of work of PROJECTS/SERVICES followed  
17 by default on part of A/E:

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

20                 b.     For failure to complete and secure approval of other  
21 authorized phases, A/E shall, upon completion of PROJECTS/SERVICES by others,  
22 be entitled to receive compensation based on approved work of  
23 PROJECTS/SERVICES not to exceed the amounts specified in Exhibit A for that  
24 particular submittal, plus the reasonable value as determined by COUNTY of  
25 the non-approved work; provided, however, that if the cost to COUNTY to  
26 complete the contract exceeds the amount specified herein, A/E shall be  
liable to COUNTY for such excess costs attributable to A/E's breach of the

**STRIKETHOUGH**  
**Attachment A**

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1 AGREEMENT.

2 **K. Laws to be Observed**

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

6 **L. Errors and Omissions**

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

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

23 **M. Insurance**

24 1. A/E shall maintain insurance coverage appropriate to protect  
25 against all risks arising from or in any way connected with the subject  
26 matters of this AGREEMENT, acceptable to COUNTY, effective on the first day  
of work and in full force throughout the full term of this AGREEMENT.

**STRIKETHOUGH**  
**Attachment A**

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1           2.    A/E agrees to deposit with COUNTY, within fourteen (14)  
2 calendar days of the date of execution of this AGREEMENT at 300 North Flower  
3 Street, Room No. 721, Santa Ana, CA 92702, certificates of insurance and  
4 endorsements (certificates shall be in a form obtainable from COUNTY), in  
5 duplicate to satisfy COUNTY, that insurance requirements of this AGREEMENT  
6 have been complied with and to keep such insurance in effect and the  
7 certificates therefore on deposit with COUNTY, during the entire term of this  
8 AGREEMENT.

9           3.    A/E agrees to furnish additional certified copies of  
10 insurance policy(ies) if requested by letter from COUNTY.

11           4.    COUNTY, shall retain the right to review the coverage, form,  
12 and amount of the insurance provided by A/E prior to the start of work on  
13 PROJECTS/SERVICES by A/E. If, in the opinion of DIRECTOR, the certificates  
14 and endorsements provided by A/E do not provide the coverage, form, and  
15 amount of insurance as required and listed herein, COUNTY, shall notify A/E  
16 in writing that A/E is in default of the AGREEMENT. A/E shall have fourteen  
17 (14) calendar days from the date of such notification from COUNTY to provide  
18 adequate insurance. If A/E fails to provide adequate insurance within the  
19 time frame specified, COUNTY, shall terminate the AGREEMENT without  
20 compensation to A/E.

21           5.    COUNTY, shall retain the right at any time to review the  
22 coverage, form, and amount of the insurance required hereby. If, in the  
23 opinion of DIRECTOR, the insurance provisions as described in this AGREEMENT  
24 do not provide adequate protection for COUNTY, COUNTY may require A/E to  
25 obtain insurance sufficient in coverage, form, and amount to provide adequate  
26 protection. COUNTY's requirements shall be reasonable but shall be designed  
to assure protection from and against the kind and extent of the risks which

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1 exist at the time a change in insurance is required.

2           6. The costs of such changes in insurance during the course of  
3 work as may be requested by COUNTY shall be paid by COUNTY, to A/E as either  
4 Extra Work, as described in paragraph J of this AGREEMENT, or as an amendment  
5 to the AGREEMENT.

6           7. COUNTY shall notify A/E in writing of changes in the  
7 insurance requirements; and if A/E does not deposit copies of acceptable  
8 certificates and endorsements with COUNTY incorporating such changes within  
9 fourteen days of receipt of such notices, this AGREEMENT shall be in default  
10 without further notice to A/E, and COUNTY, shall be entitled to all legal  
11 remedies.

12           8. The procuring of such required policy(ies) of insurance shall  
13 not be constructed to limit A/E's liability hereunder nor to fulfill the  
14 indemnification provisions of this AGREEMENT.

15           9. All insurance policies required by this AGREEMENT shall  
16 declare any deductible or self-insured retention (SIR) in an amount in excess  
17 of twenty-five thousand dollars (\$25,000) [Five thousand dollars (\$5,000) for  
18 automobile liability], which shall specifically be approved by the County  
19 Executive Office (CEO)/Office of Risk Management. A/E shall be responsible  
20 of any deductible to the insurer. Any self-insured retentions (SIRs) or  
21 deductibles shall be clearly stated on the Certificate of Insurance.

22           10. The policy or policies of insurance must be issued by an  
23 insurer licensed to do business in the state of California (California  
24 Admitted Carrier).

25           11. Minimum insurance company ratings as determined by the most  
26 current edition of the Best's Key Rating Guide/Property-Casualty/United  
States or ambest.com shall be A- (Secure Best's Rating) and VIII (Financial

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1 Size Category).

2           12. If the carrier is a non-admitted carrier in the state of  
3 California, CEO/Office of Risk Management retains the right to approve or  
4 reject carrier after a review of the company's performance and financial  
5 ratings.

6           13. The policy or policies of insurance maintained by the A/E  
7 shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limit</u>
9 Workers' Compensation	Statutory
10 Employer's Liability	\$1,000,000 per occurrence
11	\$2,000,000 aggregate
12 Commercial General Liability with broad form and contractual 13 liability	\$1,000,000 combined single limit per occurrence; \$2,000,000 aggregate
14 Auto Liability including coverage for owned, non-owned and hired 15 vehicles	\$1,000,000 combined single limit per occurrence
16 Professional Liability (Errors and Omissions )	\$1,000,000 claims made

17           14. A/E's insurance policy(ies) shall contain the following  
18 additional clauses or clauses shall be added as an endorsement to the policy:

19           a. A "Discovery Clause" or its equivalent stating that  
20 coverage will be provided for claims made following insurance policy  
21 expiration if A/E gives written notice of a claim to the insurer (for  
22 Professional Liability only). If the Professional Liability policy is a  
23 "claims made" policy, A/E shall agree to maintain professional liability  
24 coverage for two years following completion of the contract.

25           b. A clause stating, "This insurance shall not be  
26 cancelled, reduced in scope or coverage, changed or amended until after  
thirty (30) days written notice has been given to: DIRECTOR, Orange County

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1 Public Works, at 300 North Flower Street, Santa Ana, CA 92703-5000; and,  
2 Orange County Risk Management Services, P.O. Box 327, Santa Ana, CA 92702."  
3 This shall be evidenced by an endorsement separate from the Certificate of  
4 Insurance. In addition, the cancellation clause must include language as  
5 follows, which edits the pre-printed ACCORD certificate:

6           SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED  
7           BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY  
8           WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE  
9           CERTIFICATE HOLDER NAMED TO THE LEFT. ~~BUT FAILURE~~  
10          ~~TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR~~  
11          ~~LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENT OR~~  
12          ~~REPRESENTATIVE.~~

13           c. A clause stating, "This insurance shall be primary  
14 insurance and any insurance maintained by the 'County of Orange' shall be  
15 excess and non-contributing."

16           d. A clause stating, "The following party is hereby named  
17 as additional insured: 'County of Orange' (for Commercial General Liability  
18 and Auto Liability only)."

19           e. A clause stating, "This insurance shall allow for  
20 severability of interest of the: 'County of Orange'."

21           f. A clause stating, "Workers' Compensation insurance  
22 shall waive all rights of subrogation against the 'County of Orange'."

23           g. Insurance policy(ies) obtained by A/E shall not contain  
24 insurance policy riders or clauses which shall negate or modify any  
25 provision(s) or requirement(s) contained within the AGREEMENT.

26           **N. Indemnification**

A/E agrees to, indemnify, defend with counsel approved in writing  
13

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1 by COUNTY, and hold COUNTY, its elected and appointed officials, officers,  
2 employees, agents and those special districts and agencies which COUNTY'S  
3 Board of Supervisors acts as the governing Board ("COUNTY INDEMNITIEES")  
4 harmless from any claims, demands or liability of any kind or nature,  
5 including but not limited to personal injury or property damage, arising out  
6 of, pertaining to, or relating to the negligence, recklessness, or willful  
7 misconduct of the A/E. If judgment is entered against A/E and COUNTY by a  
8 court of competent jurisdiction because of the concurrent active negligence  
9 of A/E and COUNTY or COUNTY INDEMNITEES, A/E and COUNTY agree that liability  
10 will be apportioned as determined by the court. Neither party shall request  
11 a jury apportionment. Notwithstanding anything stated above, nothing  
12 contained herein shall relieve A/E of any insurance requirements or  
13 obligations created elsewhere in this AGREEMENT.

14 **O. Award of Construction Agreement and Other Future Agreements**

15 A/E is hereby informed that provisions of the Public Contract  
16 Code, the Political Reform Act of 1974, other statutes, regulations, and  
17 COUNTY policy prohibit, as an impermissible conflict of interest, the award  
18 of a contract for the construction of the project(s) on which A/E performed  
19 architectural-engineering services under this A/E AGREEMENT. A/E is hereby  
20 informed that these statutes and regulations could also prohibit the award to  
21 A/E of design or other contracts on future phases related to tasks performed  
22 by A/E under this AGREEMENT. This prohibition applies also to a  
23 subcontractor of or parent company of the firm that performed architectural-  
24 engineering tasks under this AGREEMENT.

25 **P. Amendments**

26 No alteration or variation of the terms of this AGREEMENT shall be  
valid unless made in writing and signed by the parties; no oral understanding

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1 or agreement not incorporated herein shall be binding on either of the  
2 parties; and no exceptions, alternatives, substitutes or revisions are valid  
3 or binding on COUNTY unless authorized by COUNTY in writing.

4       **Q. Successors and Assigns**

5               The terms and provisions of this AGREEMENT shall be binding upon  
6 and inure to the benefit of the parties hereto and their successors and  
7 assigns.

8       **R. Entirety**

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

11       **S. Severability**

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

16       **T. Binding Obligation**

17               The PARTIES to this AGREEMENT represent and warrant that this  
18 AGREEMENT has been duly authorized and executed and constitutes the legally  
19 binding obligation of their respective organization or entity enforceable in  
20 accordance with its terms.

21       **U. Governing Law and Venue**

22               1. This AGREEMENT has been negotiated and executed in the  
23 State of California and shall be governed by and construed under the  
24 laws of the State of California. In the event of any legal action to  
25 enforce or interpret this AGREEMENT, the sole and exclusive venue shall  
26 be a court of competent jurisdiction located in Orange County,  
California, and the PARTIES hereto agree to and do hereby submit to the



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1 jurisdiction of such court, notwithstanding Code of Civil Procedure,  
2 Section 394.

3           2. The PARTIES specifically agree that by soliciting and  
4 entering into and performing PROJECTS/SERVICES under this AGREEMENT, the A/E  
5 shall be deemed to constitute doing business within Orange County from the  
6 time of solicitation of work, through the period when all PROJECTS/SERVICES  
7 under this AGREEMENT is completed, and continuing until the expiration of any  
8 applicable limitations period.

9           **V. Child Support Enforcement Requirements**

10           1. To comply with child support enforcement requirements of the  
11 COUNTY, within thirty (30) days of notification of selection for award of  
12 PROJECTS/SERVICES, A/E agrees to complete and furnish to DIRECTOR the  
13 information required in County of Orange Child Support Enforcement Contract  
14 Certification, hereinafter referred to as "Exhibit C," attached hereto and  
15 incorporated herein by reference.

16           2. If A/E is not a corporation, general partnership, limited liability  
17 partnership, or limited liability company, A/E shall, within thirty (30) days of  
18 notification of selection of award of PROJECTS/SERVICES, complete and furnish to  
19 DIRECTOR the information required in EDD Independent Contract Reporting Requirements,  
20 hereinafter referred to as "Exhibit D," attached hereto and incorporated  
21 herein by reference.

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

25           **W. Ownership of Documents**

26           1. All data, including but not limited to letters, reports,  
files, plans, drawings, specifications, proposals, sketches, diagrams and

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1 calculations, prepared by A/E and/or anyone acting under the supervision of  
2 A/E pursuant to this AGREEMENT, shall become the property of COUNTY upon  
3 preparation by A/E and may be used by the COUNTY as it may require without  
4 additional cost to the COUNTY.

5           2. COUNTY shall not be limited in any way to its use thereof at  
6 any time, including the release of this data to third parties. A/E shall be  
7 held harmless for release of such data as may be prepared or created under  
8 this AGREEMENT to any third party. If A/E and/or anyone acting under the  
9 supervision of A/E should later desire to use any of the data prepared in  
10 connection with this AGREEMENT, A/E shall first obtain the written approval  
11 of COUNTY.

12           **X. Confidentiality**

13           1. All ideas, memoranda, specifications, plans, procedures,  
14 drawings, descriptions, and all written or other information submitted to  
15 A/E in connection with the performance of this AGREEMENT shall be held  
16 confidential by A/E and/or anyone acting under the supervision of A/E and  
17 shall not, without the prior written consent of COUNTY, be used for any  
18 purposes other than the performance of the PROJECTS/SERVICES described in  
19 Exhibit A, nor be disclosed to any person, partnership, company, corporation  
20 or agency, not connected with the performance of the PROJECTS/SERVICES.

21           2. Nothing furnished to A/E which is generally known among  
22 counties in Southern California shall be deemed confidential.

23           3. A/E and/or anyone acting under the supervision of A/E shall  
24 not use COUNTY name or insignia, photographs of the work, or any other  
25 publicity pertaining to the work in any magazine, trade paper, newspaper, or  
26 other medium without the express written consent of COUNTY.

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1           **Y.    Publication**

2           1.    No copies, sketches or graphs, including graphic art work,  
3 resulting from performance or prepared in connection with the  
4 PROJECTS/SERVICES, are to be released by A/E and/or anyone acting under the  
5 supervision of A/E to any person, partnership, company, corporation, or  
6 agency, without prior written approval by COUNTY, except as necessary for the  
7 performance of the PROJECTS/SERVICES.

8           2.    All press releases, including graphic display information to  
9 be published in newspapers, magazines, etc., are to be administered only by  
10 COUNTY unless otherwise agreed to in writing by both parties.

11           **Z.    Records and Audit/Inspections**

12           1.    A/E shall keep an accurate record of time expended by A/E  
13 and/or consultants employed by A/E in the performance of this AGREEMENT.

14           2.    Within ten (10) days of COUNTY's written request, A/E shall  
15 allow COUNTY or authorized State or Federal agencies or any duly authorized  
16 representative to have the right to access, examine, audit, excerpt, copy or  
17 transcribe any pertinent transaction, activity, time cards or other records  
18 relating to this AGREEMENT.

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

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

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**AA. Notices**

1           **AA. Notices**  
2           1. Any and all notices, requests, demands and other  
3 communications contemplated, called for, permitted, or required to be given  
4 hereunder shall be in writing, except through the course of the PARTIES'  
5 project managers' routine exchange of information and cooperation during the  
6 PROJECTS/SERVICES.

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

13           3. All communications shall be addressed to the appropriate  
14 party at the address stated herein or such other address as the parties  
15 hereto may designate by written notice from time to time in the manner  
16 aforesaid.

17           For A/E:

18                           Name: Thirtieth Street Architects, Inc.  
19                           Address: 2821 Newport Blvd.  
20                           City: Newport Beach, CA 92663  
21                           Attn: James C. Wilson, Principal  
22                           Phone: (949)673-2643  
23                           E-mail: jw@tsainc.us  
24                           Fax: (949)673-2643

25           For COUNTY:

26                           Name: County of Orange/OC Parks Design  
27                           Address: 13402 Old Myford Rd  
28                           City: Irvine, CA  
29                           Attn: Scott Thomas, Manager  
30                           Phone: (949)923-3757  
31                           E-mail: scott.thomas@ocparks.com  
32                           Fax: (714)973-3338

1           **AB. Attorney's Fees**

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

5           **AC. Interpretation**

6           1.     AGREEMENT has been negotiated at arm's length and between  
7 persons sophisticated and knowledgeable in the matters dealt with in this  
8 AGREEMENT.

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

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

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

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

22           **AD. Headings**

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

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1           **AE. Acceptance**

2           Unless otherwise agreed to in writing by COUNTY acceptance shall  
3 not be deemed complete unless in writing and until all the services have  
4 actually been received, inspected, and tested to the satisfaction of COUNTY.

5           **AF. Consent to Breach not Waiver**

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

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

12           **AG. Remedies Not Exclusive**

13           The remedies for breach set forth in this AGREEMENT are cumulative  
14 as to one another and as to any other provided by law, rather than exclusive;  
15 and the expression of certain remedies in this AGREEMENT does not preclude  
16 resort by either party to any other remedies provided by law.

17           **AH. Independent Contractor**

18           1. A/E shall be considered an independent contractor and neither  
19 A/E, its employees, nor anyone working under A/E shall be considered an agent  
20 or an employee of COUNTY.

21           2. Neither A/E, its employees nor anyone working under A/E shall  
22 qualify for workers' compensation or other fringe benefits of any kind  
23 through COUNTY.

24           **AI. Bills and Liens**

25           A/E shall pay promptly all indebtedness for labor, materials and  
26 equipment used in performance of the work. A/E shall not permit any lien or  
charge to attach to the work or the premises, **but if any does so attach, A/E**

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1 shall promptly procure its release and, in accordance with the requirements  
2 of the indemnification paragraph above, indemnify, defend, and hold COUNTY  
3 harmless and be responsible for payment of all costs, damages, penalties and  
4 expenses arising from or related thereto.

5       **AJ. Changes**

6           A/E shall make no changes in the work or perform any additional  
7 work without the COUNTY'S specific written approval.

8       **AK. Assignment**

9           The terms, covenants, and conditions contained herein shall apply  
10 to and bind the heirs, successors, executors, administrators and assigns of  
11 the parties. Furthermore, neither the performance of this AGREEMENT nor any  
12 portion thereof may be assigned or sub-contracted by A/E, by any means  
13 whatsoever including but not limited to merger by acquisition, without the  
14 express written consent of COUNTY. Any attempt by A/E to assign or sub-  
15 contract the performance or any portion thereof of this AGREEMENT without the  
16 express written consent of COUNTY shall be invalid and shall constitute a  
17 breach of this AGREEMENT.

18       **AL. Changes in Ownership**

19           A/E agrees that if there is a change or transfer in ownership,  
20 including but not limited to merger by acquisition, of A/E's business prior  
21 to completion of this AGREEMENT, the new owners shall be required under terms  
22 of sale or other transfer to assume A/E's duties and obligations contained in  
23 this AGREEMENT and to obtain the written approval of COUNTY of such merger or  
24 acquisition, and complete the obligations and duties contained in the  
25 AGREEMENT to the satisfaction of COUNTY.

26       **AM. Force Majeure**

          A/E shall not be assessed with damages or unsatisfactory

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1 performance penalties during any delay beyond the time named for the  
2 performance of this AGREEMENT caused by any act of God, war, civil disorder,  
3 employment strike or other cause beyond its reasonable control, provided A/E  
4 gives written notice of the cause of the delay to COUNTY within thirty-six  
5 (36) hours of the start of the delay and A/E avails himself of any available  
6 remedies.

7           **AN. Compliance with Laws**

8           1. A/E represents and agrees that services to be provided under  
9 this AGREEMENT shall fully comply, at A/E's expense, with all standards,  
10 laws, statutes, restrictions, ordinances, requirements, and regulations  
11 (collectively "laws"), including, but not limited to those issued by COUNTY  
12 in its governmental capacity and all other laws applicable to the  
13 PROJECTS/SERVICES at the time PROJECTS/SERVICES are provided to and accepted  
14 by COUNTY.

15           2. A/E acknowledges that COUNTY is relying on A/E for such  
16 compliance, and pursuant to the requirements of the indemnification paragraph  
17 above, **A/E agrees that it shall defend, indemnify and hold COUNTY and COUNTY**  
18 **INDEMNITEES harmless from all liability, damages, costs and expenses arising**  
19 **from or related to a violation of such laws.**

20           **AO. Calendar Days**

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

23           **AP. Breach of Contract**

24           The failure of the A/E to comply with any of the provisions,  
25 covenants or conditions of this AGREEMENT shall be a material breach of this  
26 AGREEMENT. In such event, in addition to any other remedies available at law,  
in equity, or otherwise specified in this AGREEMENT, the COUNTY may:



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

4           2.     discontinue payment to the A/E for and during the period in  
5 which the A/E is in breach; and

6           3.     offset those monies disallowed pursuant to the above, against  
7 any monies billed by the A/E but yet unpaid by the COUNTY.

8           **AQ. Default**

9           1.     In the event any equipment or service furnished by the A/E in  
10 the performance of this AGREEMENT should fail to conform to the  
11 specifications therein within one (1) calendar year from the COUNTY'S  
12 acceptance of the equipment or service, or any performance period  
13 specifically specified within the specifications or AGREEMENT, whichever is  
14 greater, the COUNTY may reject same, and it shall become the duty of the A/E  
15 to reclaim and remove the items without expense to the COUNTY and to  
16 immediately replace all such rejected equipment or service with others  
17 conforming to such specifications, provided that should the A/E fail, neglect  
18 or refuse to do so within one hundred and twenty (120) calendar days, the  
19 COUNTY shall have the right to purchase on the open market a corresponding  
20 quantity of any such equipment or service and to deduct from any monies due  
21 or that may thereafter become due to the A/E the difference between the price  
22 specified in this AGREEMENT and the actual cost to the COUNTY.

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

          3.     In the event of the cancellation of this AGREEMENT, either in  
                          24

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1 whole or in part, by reason of the default or breach by the A/E, any loss or  
2 damage sustained by the COUNTY in procuring any equipment or service which  
3 the A/E agreed to supply under this AGREEMENT shall be borne and paid for by  
4 the A/E.

5           4. Default shall include failure to carry out any of the  
6 requirements of this AGREEMENT, including, but not limited to not providing  
7 enough properly skilled workers or proper materials, persistently  
8 disregarding laws and or ordinances, not proceeding with the  
9 PROJECTS/SERVICES as agreed to herein, or otherwise substantially violating  
10 any provision of this AGREEMENT.

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

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

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

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

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

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1           **AS. Title to Data**

2           1. All materials, documents, data or information obtained from  
3 the COUNTY data files or any COUNTY medium furnished to the A/E in the  
4 performance of this AGREEMENT, will at all times remain the property of the  
5 COUNTY. Such data or information may not be used or copied for direct or  
6 indirect use by the A/E after completion or termination of this AGREEMENT  
7 without the express written consent of the COUNTY.

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

12           **AT. Availability of Funds**

13           The obligation of COUNTY is subject to the availability of funds  
14 appropriated for this purpose, and nothing herein shall be construed as  
15 obligating the COUNTY to expend or as involving the COUNTY in any contract or  
16 other obligation for future payment of money in excess of appropriations  
17 authorized by law.

18           **AU. Contract Construction**

19           The parties acknowledge that each party and its counsel have  
20 reviewed this AGREEMENT and that the normal rule of construction to the  
21 effect that any ambiguities are to be resolved against the drafting party  
22 shall not be employed in the interpretation of this AGREEMENT or any  
23 amendment or exhibits hereto.

24           **AV. Waiver of Jury Trial**

25           Each PARTY acknowledges that it is aware of and has had the  
26 opportunity to seek advice of counsel of its choice with respect to its  
rights to trial by jury, and each PARTY, for itself and its successors,

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1 creditors, and assigns, does hereby expressly and knowingly waive and release  
2 all such rights to trial by jury in any action, proceeding or counterclaim  
3 brought by any PARTY hereto against the other (and/or against its officers,  
4 directors, employees, agents, or subsidiary or affiliated entities) on or  
5 with regard to any matters whatsoever arising out of or in any way connected  
6 with this AGREEMENT and/or any other claim of injury or damage.

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Attachment A

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

3  
4 Thirtieth Street Architects, Inc.  
5 a California Corporation,

6 Date: 2/23/10

7  
8 By [Signature]  
9 John C. Loomis, President, C-8684

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

12 Date: 2/23/10

13 By [Signature]  
14 James C. Wilson, Secretary & CFO, C-8994

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

17 COUNTY OF ORANGE,  
18 a political subdivision of the State of  
19 California

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

21 By \_\_\_\_\_  
22 Chair of the Board of Supervisors  
23 Orange County, CA

24 Signed and certified that a copy of this  
25 document has been delivered to the Chair of  
26 the Board per G.C. Sec 25103, Reso 79-1535  
Attest:

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

\_\_\_\_\_  
Darlene J. Bloom  
Clerk of the Board of Supervisors  
County of Orange, California

Date: 2/24/10

APPROVED AS TO FORM  
Office of the County Counsel  
Orange County, California

By: [Signature]  
Deputy

Orange County Community Resources  
OC Parks

**"On-Call"  
ARCHITECT/ENGINEER (A/E) DESIGN  
PROFESSIONAL CONSULTANT SERVICES**

**SCOPE OF WORK**

Orange County Parks (OC Parks) manages and operates a system of facilities of regional parks, beaches, harbors, trails and historic sites and takes great pride in the appearance and amenities provided at every park. OC Parks realizes that parks are places to invite people to look up close at the details of the built environment as well as the natural environment. It is with this in mind that OC Parks desires the design and construction of its facilities be unique, enjoyable and of enduring value.

**Introduction/Purpose**

OC Parks requires supplemental Architect-Engineer (A/E) design and professional consultant services to meet workload demands and project scheduling commitments for implementation of capital improvement and rehabilitation projects.

Throughout the remainder of this document the term "A/E" shall refer to the Architect/Engineer or professional consultant providing services and "OC Parks" shall refer to the OC Parks Director or designated staff who shall be administering the Agreement, unless stated otherwise. "Agreement" shall refer to the written contract between the A/E and the County of Orange.

**Scope of Work**

There are two parts to this Scope of Work. **Part I** or "General Scope of Work" describes the general "On Call" services to be provided as part of the Agreement, and describes the administrative process of the Agreement. **Part II** or "Specific Scope of Work" describes the specific "On-Call" services to be provided as part of the Agreement for various disciplines of work.

**Part I – General Scope of Work**

**1. Contract Task Order**

After award of an Agreement by the Board of Supervisors, the A/E shall be assigned work via a task order by OC Parks which shall subsequently be referred to as the "Contract Task Order" (CTO). A CTO for each project shall be developed by the A/E in conjunction with OC Parks.

**Exhibit A**

The CTO shall include a detailed scope of work, including tasks to be performed, list of deliverables, schedule of work and cost to complete the work. The schedule of work shall allow sufficient time for meetings with OC Parks staff to review the work progress, provide technical and policy direction, resolve problems and ensure adherence to the work completion. The CTO shall include signature block at the end for signatures by a principal of the A/E firm, the OC Parks Project Manager, OC Parks Project Sponsor, OC Parks Design Manager and the OC Parks Director. After OC Parks and A/E are in agreement and all parties have agreed to and signed the CTO, OC Parks shall provide A/E a Notice to Proceed to begin work.

The A/E firm shall follow the requirements as outlined in the CTO and where there is a discrepancy between the CTO and this General and Specific Scope of Work, the more stringent requirements shall be followed.

**2. Extra Work**

Extra work shall be per the Agreement Section J. 2.

In the event extra work is required, the Schedule of Fees as submitted by the A/E in the Agreement (Exhibit B) shall determine the basis of payment for extra work.

**3. Reimbursable Items of Work**

Reimbursable items of work include non-salary expense items not included in the CTO but necessary for the work. A budgetary cost for reimbursables shall be submitted with each CTO. Reimbursable items shall be submitted in advance with supporting documentation for review and approval by OC Parks.

**Items Considered Reimbursable Direct Costs**

- A. Identifiable communication expense (large packages or express, overnight or next day mail charges), other than for general correspondence required for the performance of the work.
- B. Identifiable printing or reproduction services, commercial printing and binding, and similar costs that are not applicable to general overhead required for the performance of the work.
- C. Third-party services directly applicable to the work, such as: specialized services which cannot be accomplished by the A/E and may be subcontracted under Section A, Paragraph 3 of the Agreement (i.e., corrosion engineering, electrical, mechanical, etc.), special legal and accounting expenses, special consultants, outside laboratory charges, and similar costs that are not applicable to general overhead. A/E shall obtain approval from OC Parks prior to considering third party services for reimbursement.

All work conducted by special consultants/contractors on behalf of the A/E under Section A, Paragraph 3, 4 & 5, shall be considered as part of the forty-nine percent (49%) allowable portion of the Agreement that can be accomplished by sub-consultants.

NOTE: A/E shall obtain approval from OC Parks prior to considering computer expense reimbursement for any A/E third party services. In-house computer time is not considered a reimbursable item and shall be included as part of the A/E fee, listed in A/E Schedule of Fees, Exhibit B of the Agreement.

- D. Materials used for in-house testing, laboratory and field supplies.
- E. Permit fees, application fees, and filing fees.
- F. Mileage and parking fees for field work and meetings outside Orange and Los Angeles Counties. Requests for this reimbursable item of work must be approved prior to the start of work and the A/E's incurrence of such costs.
- G. All costs associated with "Reimbursable Items of Work," shall be considered as included in (not in addition to) the total Contract Task Order, excluding extra work, as specified in Section 2 and no additional compensation will be allowed.

Payment to the A/E shall be conditioned upon approval by OC Parks and the A/E providing an invoice with copies of the tickets, receipts, invoices or other proof of payment by the A/E. Payment to the A/E for all Reimbursable Items of Work shall be actual invoice cost as approved by OC Parks.

Items Not Considered Reimbursable

- A. Hotel and meal expenses for the A/E employees during the course of working on the CTO.
- B. Vehicle rental and equipment use rentals.
- C. Computer Aided Drafting and Design, computerized engineering software, scheduling software, and subsequent equipment operation related to the production of exhibits, reports, submittals and study documentation which shall be considered included in the cost of general overhead and included in the hourly personnel rates for the CTO.
- D. General overhead costs such as accounting, computer rentals, and items generally required for the basic operations of daily business directly related to this project.
- E. Standard plans, standard specifications, reference manuals, books, periodicals, or other written materials used to complete the CTO.



- F. Local telephone, FAX, email and internet use.
- G. Any costs other than those explicitly authorized in Section 3 above, unless written approval has been obtained in advance from the OC Parks.

**4. Invoices**

- A. Prime A/E shall be required to submit monthly invoices for services including those provided by the sub-consultants. Payments to Prime A/E invoiced on a monthly basis shall not exceed the total authorized CTO amount. Prime A/E monthly invoices shall be subject to OC Parks approval in accordance with progress of work and based on the approved Project Schedule.
- B. Prime A/E invoices shall include the Project title, Master Agreement (MA) number, Departmental Order (DO) number, total dollar cost of CTO, dollar amount of invoice (broken down by tasks and deliverables), and remaining dollar amount on CTO and MA. Sub-consultants shall follow the same format for billing to Prime A/E. OC Parks shall provide a template for Invoicing.
- C. For time and material work, Prime A/E shall include on the invoice the Master Agreement (MA) number, Departmental Order (DO) number, total dollar cost of CTO, breakdown of the performed task, time spent on each task by staff title, hourly rate charged and costs totaled for each staff member.
- D. For lump sum work, Prime A/E shall include on the invoice the Master Agreement (MA) number, Departmental Order (DO) number, total dollar cost of CTO, percent completion by task, hourly rate charged and costs totaled for each staff member at the time of the invoice.
- E. Prime A/E shall also show on the invoice a complete accounting for reimbursable items as described above in Section 3. All reimbursable items shall be invoiced and paid for at actual costs. The A/E is responsible for providing OC Parks with an acceptable invoice. An invoice determined not to be a proper invoice suitable for payment will be returned to the A/E for correction, with a statement setting forth the reasons for rejection.
- F. Payment to the Prime A/E shall be within thirty (30) days of receipt by OC Parks pending an approved invoice. A retention of ten percent (10%) shall be withheld each month from the cumulative amount due to the Prime A/E on each separate item of work. Payment of the remaining ten percent (10%) on each separate item of work shall be made upon acceptance and approval of said item of work by OC Parks.

**5. Deliverable Items of Work**

Deliverable items of work may include engineering reports, concept plans, construction documents (plans, specifications & cost estimate), graphic renderings of concepts, plans, sections and details, sample boards of materials and colors used for construction, construction inspection, environmental documents, regulatory permits and contract administration/contract management services.

Deliverable items of work for each CTO shall be per the CTO approved by OC Parks and agreed to by the A/E. Format (e.g. correspondence, text, graphics, CAD standards) for deliverables shall be per the CTO. The minimum requirements for word processing, spreadsheet and PowerPoint documents shall be MS Office, for project schedule shall be MS Project and CAD plans shall be AutoCAD. All deliverables shall also be provided in Adobe PDF format.

**6. Items Provided by OC Parks**

Items provided by OC Parks may include historical documents, legal descriptions, record drawings etc. and shall be specified in the CTO.

**7. Construction Support Services**

Construction support services may include response to questions during the bid period, attendance at the pre-bid meeting, review and response to contractor deliverables (including but not limited to construction submittals, RFIs and change orders) and site visits during construction to resolve issues. Construction support services shall be identified in the CTO.

**8. Project Schedule & Reviews**

Project Schedule

A/E shall submit a project schedule for completion of all required CTO work including deliverables to OC Parks within one week of Notice to Proceed. This schedule shall allow sufficient time and include meetings with OC Parks to review the deliverables, work progress, to provide technical and policy direction, resolve problems and insure adherence for the work completion. Upon review and approval of the schedule by OC Parks, the A/E shall baseline the schedule.

A/E shall submit monthly progress updates of the Project Schedule (or more often as required by the Project Manager). Delays in completion of critical path tasks due to unforeseen issues shall be brought to the immediate attention of OC Parks and documented in each schedule update. Detailed project schedule and review requirements shall be per the CTO.

Reviews

The Project Schedule shall include County and/or other agency review periods as separate tasks.

**9. Project Management & Meetings**

Project Management

OC Parks Project Management (PM) staff has been trained in the Project Management methodology. As such, all PMs strive to follow this methodology in completing projects. This methodology includes the following items: Work breakdown structure, project schedule, responsibility matrix, and communication plan.

Upon approval of the CTO, the Prime A/E consultant shall designate a Project Manager (A/E PM) to manage and administer each CTO.

The A/E PM shall coordinate all A/E and sub-consultant work and will ensure quality control/quality assurance on all submittal packages.

OC Parks shall assign an OC Parks PM for each CTO. The OC Parks PM shall manage all A/E's work including schedules, deliverables, invoices, budget and internal review of submittal packages.

A/E is expected to provide adequate staffing resources appropriately qualified in the areas of expertise to meet the project requirements in order to meet established schedules. If the A/E does not meet the expectations of OC Parks in performing the CTO, OC Parks reserves the right to cancel the CTO.

Meetings

Project meetings shall be scheduled as agreed upon by the A/E PM and OC Parks PM on a monthly basis (or more often as required by CTO). Within three working days following each meeting, the A/E PM shall submit meeting minutes identifying Discussion as well as Action Items.

**10. Communications**

A Communications Plan shall be developed by the OC Parks PM for each CTO in coordination with the A/E PM to determine what is communicated, how it is communicated and to whom it is communicated.

A/E PM shall return email and phone calls within one business day.

**11. Public Presentations**

Prime A/E may be required to develop, present and/or participate in public meetings and presentations. Preparation of PowerPoint presentations or written technical information may also be required as part of the public meeting and presentation.

Attendance and participation in specific public presentations/meetings shall be identified in each CTO.

**Part II – Specific Scope of Work**  
**Design Services**

**Requirements of Prime Consultant (Architecture)**

The Prime A/E Consultant (Prime A/E) shall be responsible for assembling, coordinating and managing a team of sub-consultants necessary to provide a complete project. The Prime A/E shall be the primary point of contact and shall be responsible for the project schedule, conducting meetings with OC Parks as well as sub-consultants, managing correspondence and submitting the CTO deliverables. The Prime A/E shall also be responsible for quality control and the oversight of the entire project per the CTO.

Prime A/E shall be responsible for providing the following general services:

**A. Site Planning**

Planning services including site development, project program planning, preliminary and final design concept.

**B. Architecture**

Architecture services including building program outline, alternative building design concepts, specific building design (e.g. site plan, floor plan, roof plan, HVAC plan, sections, details, etc.), and project specifications and cost estimates.

**C. Landscape Architecture**

Landscape Architecture services including development of design concept and final plans, production of construction documents (e.g. hardscape plan, planting plans, irrigation plan, sections, details, etc.) project specifications and cost estimates.

**D. Engineering**

Engineering services including preparation of project reports, development of utility plans (sewer, water (storm water, domestic and fire protection), electrical and telecommunications), grading, drainage, water quality management plans and hydrology studies.

Engineering expertise may also be required on roads, drainage courses, parking areas, slopes, and water features (lakes, creeks and channels).

**E. Surveying**

Survey services including surveys indicating topography, cross sections, spot elevations, aerials, research of legal descriptions, easements and other right of way documents.

**F. Geotechnical Engineering**

Geotechnical services including geotechnical investigations and/or calculations and incorporate findings and recommendations into final design solutions.

**G. Utilities**

Utility services including initial and second utility notice coordination with the utility companies within project limits. Utility contact information including identifying permits and associated fees required to connect to existing utilities. A/E shall ensure that project's final design is compatible with all utilities in project area and identify utilities to be installed, relocated, adjusted or modified. A/E shall also provide utility dispositions identifying existing utility locations above and below ground by station, offset and elevation.

**H. Structural Engineering**

Structural engineering services including calculations and drawings for buildings or landscape design elements.

**I. Plans, Specifications & Cost Estimates**

A/E shall provide plans including conceptual design and/or through final construction bid documents. A/E shall coordinate and provide quality control on all sub-consultants work packages.

A/E shall provide specifications including categories for general, materials and execution for each area of trade required in the project. Minimum specifications requirements shall follow the latest edition of CSI format and Standard Specifications for Public Works Construction "Greenbook".

A/E shall provide cost estimates including conceptual design through final construction bid documents. Estimates shall reflect accurate and detailed material quantities and current costs based on bidding climate.

**Schedule of Fees**

Thirtieth Street Architects, Inc.

	<u>Labor Classification</u>	<u>Hourly Rate</u>
1.	Principal	\$160
2.	Licensed Architect	\$135
3.	Draftsperson	\$110
4.	Clerical	\$50

RBF Consulting, Civil Engineers

	<u>Labor Classification</u>	<u>Hourly Rate</u>
1.	Principal	\$200
2.	Project Manager	\$175
3.	Structural Engineer	\$190
4.	Senior Engineer	\$160
5.	Electrical Engineer	\$160
6.	Landscape Architect	\$145
7.	Project Engineer	\$150
8.	Design Engineer	\$130
9.	GIS Analyst	\$120
10.	Engineering Designer	\$100
11.	Assistant Engineer	\$95
12.	Graphic Artist	\$95
13.	CADD Technician	\$75
14.	2-Person Survey Crew	\$250
15.	Survey Field Supervisor	\$175
16.	Clerical	\$65

RJM Design Group, Inc., Planning and Landscape Architects

	<u>Labor Classification</u>	<u>Hourly Rate</u>
1.	Principal Landscape Architect	\$165
2.	Associate Landscape Architect	\$140
3.	Associate Landscape/Project Manager	\$125
4.	Job Captain/Landscape Designer	\$110
5.	CADD Technician	\$95
6.	Draftsperson	\$80
7.	Word Processor	\$65

Ann Christoph, Historical Landscape Architect

	<u>Labor Classification</u>	<u>Hourly Rate</u>
1.	Landscape Architect, Principal	\$125
2.	Landscape Architect	\$95

**Exhibit B**

3.	Irrigation Designer	\$125
4.	Landscape Assistant	\$75
5.	Clerical	\$45

Structural Focus, Structural Engineers

	<u>Labor Classification</u>	<u>Hourly Rate</u>
1.	Principal	\$195
2.	Associate	\$155
3.	Project Engineer	\$135
4.	Design Engineer	\$120
5.	Structural Designer	\$100
6.	CAD Specialist	\$75
7.	Intern Designer	\$65
8.	Administration/Clerical	\$35

Linwood Engineering Associates, P.C., MEP Engineering

	<u>Labor Classification</u>	<u>Hourly Rate</u>
1.	Principal	\$175
2.	Engineer	\$130
3.	Designer	\$90
4.	Draftsperson	\$75
5.	Secretary/Clerical	\$50

Graham Design, Interior Design

	<u>Labor Classification</u>	<u>Hourly Rate</u>
1.	Principal/Design	\$130
2.	Production	\$80
3.	Designer	\$55

Iskander Associates, Inc., Cost Estimating

	<u>Labor Classification</u>	<u>Hourly Rate</u>
A.	Cost Estimating and Construction Management Services:	
1.	Principal	\$150
2.	Senior Overall Estimator	\$115
3.	Senior Architectural Estimator	\$115
4.	Senior Mechanical/Electrical Estimator	\$115
5.	Senior Civil Estimator	\$95
6.	Architectural Estimator	\$85
7.	Structural Estimator	\$85
8.	Mechanical/Electrical Estimator	\$85
9.	Civil Estimator	\$85
10.	Clerical	\$55

**Exhibit B**

B.	Value Engineering Services	
	1. Certified Value Engineer	\$275
	2. Value Engineer Team Leader	\$225
	3. Value Engineering Team Members:	
	a. Architects	\$250
	b. Engineer	\$250
	c. Cost Consultant	\$200
	d. Senior Life Cycle Analyst	\$200
	e. Technical Support	\$85
	f. Clerical	\$65
C.	Construction Scheduling Services:	
	1. Senior Scheduler	\$150
	2. Scheduler	\$105
	3. Computer Data Input	\$75

Coastline Design, Kitchen Design

<u>Labor Classification</u>	<u>Hourly Rate</u>
1. Principal Designer	\$125
2. Interior Designer	\$90
3. Draftsperson	\$90

Geotechnical Solutions, Inc., Geotechnical Engineers

<u>Labor Classification</u>	<u>Hourly Rate</u>
1. Principal Engineer/Principal Geologist	\$160
2. Project Engineer/Project Geologist	\$140
3. Staff Engineer/Geologist	\$120
4. Senior Technician	\$100
5. Field Technician	\$90
6. Lab Testing	\$90
7. Word Processing/Clerical	\$60

ATC Associates, Environmental Testing

<u>Labor Classification</u>	<u>Hourly Rate</u>
1. Senior Project Manager	\$95
2. Project Manager	\$85
3. Project Scientist (Reports)	\$75
4. Technician (Inspections)	\$65
5. CADD	\$45
6. Clerical	\$35

Unit Costs

1. PLM (Asbestos Analysis) – Normal TAT	\$12
2. Flame AA (Lead Analysis) – Normal TAT	\$13
3. XRF Device per day (.50 per mile)	\$100



**Exhibit B**

Koury Engineering & Testing, Inc., Construction Testing

<u>Labor Classification</u>	<u>Hourly Rate</u>
1. Technician – Soils, Asphalt, Pile Monitoring & Inspection	\$70
2. Inspector – Concrete, Masonry, Steel, Fireproofing.	\$70
3. Inspector – Glu-Lam Beams/Trusses at Fabrication Shop	\$95
4. Non-Destructive Testing: Ultrasonic, Dye Penetrant, or Magnetic Particle Inspection	\$95
5. Administrative Office Support	\$50

Reimbursable expenses shall be invoiced at a maximum direct cost plus 10% and shall be included items per list in Exhibit A, Scope of Work, General Scope of Work, Section 3 Reimbursable Items, unless otherwise specified and approved in the Contract Task Order. This hourly rate schedule is in effect until the expiration of this Agreement.

County of Orange Child Support Enforcement

Contract Certification - EXHIBIT C

INSTRUCTIONS:

UPON NOTIFICATION OF SELECTION FOR CONTRACT AWARD/REQUEST FOR RENEWAL, COMPLETE PART I AND PART II. RETURN COMPLETED FORM TO: OC PARKS 13042 OLD MYFORD RD. IRVINE, CA 92617. Att. Jeff Miller (949)923-3767

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

**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 \_\_\_\_\_