

Attachment B

County of Orange, OC Public Works

Agreement No. D11-082
Revised 06-29-11

A G R E E M E N T

THIS AGREEMENT, hereinafter referred to as "**AGREEMENT**," for purposes of identification hereby numbered **D11-082**, and dated _____ day of _____, 20_____ is

BY AND AMONGST

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

AND

Atkins North America, Inc. (f/k/a Post, Buckley, Schuh & Jernigan, Inc. (d/b/a PBS&J), a Florida Corporation, 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 hereinafter referred to as "Attachment 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, Geotechnical Engineering, Traffic Engineering, Land Surveying or Environmental Services.

NOW, THEREFORE, IT IS AGREED by and amongst the parties hereto as follows:

A. Retainer

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

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2. A professional, duly registered in the State of California, who shall be assigned to PROJECTS/SERVICES and whose services are offered by A/E and accepted by COUNTY is **Romeo Firme.**

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

a. **Group Delta Consultants, Inc./Geotechnical**

b. **Coast Surveying, Inc./Survey**

4. Consultants/contractors may be substituted and/or added by mutual AGREEMENT of A/E and the Director, County of Orange, OC Public Works or his designee, hereinafter referred to as "DIRECTOR."

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

B. PROJECTS/SERVICES

1. Description of PROJECTS/SERVICES

a. PROJECTS/SERVICES to be performed by A/E shall consist of the work as specified herein and as required in Attachment A. If in the event Attachment A shall be in conflict with any provision of this AGREEMENT,

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the wording as set forth in Attachment A shall prevail.

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

2. Design Criteria and Standards

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

3. Scheduling

a. Concurrently with the work of the AGREEMENT, A/E shall prepare a progress work schedule and within five (5) working days from the date of receipt of individual assignments from COUNTY, A/E shall submit to COUNTY two (2) copies of a progress work schedule which shall delineate dates of commencement and completion of the various phases of PROJECTS/SERVICES 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 A/E.

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

c. A/E shall meet on an "as-needed" basis as determined by DIRECTOR with COUNTY or at least once every two (2) weeks to review progress of work, adherence to progress schedule, coordination of work, scheduling of seminars, if needed, and to resolve any problems that may develop.

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

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

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

15 **C. Assistance by COUNTY**

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

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

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

25 1. A/E agrees that no full-time, regular employee of COUNTY who
26 is involved in this Project shall be given or offered employment by A/E in a

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1 participatory status during the life of this AGREEMENT regardless of the
2 assignments said employee may be given or the days or hours employee may
3 work. By accepting this AGREEMENT, A/E agrees not to negotiate any
4 employment opportunity with any COUNTY full-time, regular employee who is
5 involved in this Project in professional classifications of the same skills
6 required for the performance of this AGREEMENT.

7 2. Nothing in this AGREEMENT shall be deemed to make A/E, or any
8 of A/E's employees or agents, the agents or employees of the COUNTY. A/E
9 shall be an independent contractor and shall have responsibility for and
10 control over the details and means for performing the work, provided that A/E
11 is in compliance with the terms of this AGREEMENT. Anything in the AGREEMENT
12 which may appear to give COUNTY the right to direct A/E as to the details of
13 the performance of the work or to exercise a measure of control over A/E
14 shall mean that A/E shall follow the desires of COUNTY, only in the results
15 of the work.

16 E. Non-Discrimination

17 1. In the performance of this AGREEMENT, A/E agrees that it will
18 comply with the requirements of the California Labor Code and not engage nor
19 permit any subcontractors to engage in discrimination in employment of
20 persons because of the race, religious creed, color, national origin,
21 ancestry, physical disability, mental disability, medical condition, marital
22 status, or sex of such persons.

23 2. A/E acknowledges that a violation of this provision shall
24 subject A/E to all the penalties imposed for a violation of the California
25 Labor Code.

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F. Employee Eligibility Verification

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

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

G. Termination of Agreement for Cause

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

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

3. In the event the alleged breach is not cured by A/E prior to termination, all work performed by A/E pursuant to this AGREEMENT, which

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work has been reduced to plans or other documents, shall be made available to COUNTY.

H. Termination for Convenience

1. Notwithstanding any other provision of the AGREEMENT, COUNTY may at any time, and without cause, terminate this AGREEMENT in whole or in part, upon not less than seven (7) calendar days' written notice to the A/E. 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 of the Work to be terminated.

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

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

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

5. A/E shall insert in all subcontracts that the subcontractor shall stop work on the date of and to the extent specified in a notice of termination, and shall require subcontractors to insert the same condition in any lower tier subcontracts.

I. Term and Maximum Compensation

The term of this AGREEMENT is for three (3) years commencing on the date of execution by the Board of Supervisors, with a maximum allowable compensation of four-hundred thousand dollars (\$400,000.00), except as

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permitted in Paragraph J below.

J. A/E Compensation and Extra Work

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

1. For completion and approval of all PROJECTS/SERVICES where "Extra Work" (defined as changes in approved portions of the PROJECT/SERVICES required by and ordered in writing by DIRECTOR which changes constitute a change in or departure from said approved portions of PROJECTS/SERVICES) is not authorized, compensation including reimbursables shall be described and payable as stipulated in Fee Schedule, herein-after referred to as "Attachment B", attached hereto and incorporated herein by reference. Budget adjustments between specialty support services and associated task items stipulated in Attachment A and "Project Specific Scopes of Work" referenced therein may be made with the approval of the Director, or his designee, including the reduction of the allocated budget for a task in order to augment by this same amount the budget for any other task.

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

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

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case shall Extra Work exceed one hundred thousand dollars (\$100,000).

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

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

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

b. For failure to complete and secure approval of other authorized phases, A/E shall, upon completion of PROJECTS/SERVICES by others, be entitled to receive compensation based on approved work of PROJECTS/SERVICES not to exceed the amounts specified in Attachment A for that particular submittal, plus the reasonable value as determined by COUNTY of the non-approved work; provided, however, that if the cost to COUNTY to 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 AGREEMENT.

K. Laws to be Observed

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

L. Errors and Omissions

1. All PROJECTS/SERVICES submitted by A/E shall be complete and shall be carefully checked prior to submission. A/E understands that COUNTY's checking is discretionary, and A/E shall not assume that COUNTY will discover errors and/or omissions. If COUNTY discovers any errors or

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omissions prior to approving A/E's PROJECTS/SERVICES, the PROJECTS/SERVICES will be returned to A/E for correction. Should COUNTY or others discover errors or omissions in the work submitted by A/E after COUNTY's approval thereof, COUNTY's approval of A/E's PROJECTS/SERVICES shall not be used as a defense by A/E.

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

M. Insurance

1. A/E shall maintain insurance coverage appropriate to protect against all risks arising from or in any way connected with the subject 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.

2. A/E agrees to deposit with COUNTY, within fourteen (14) calendar days of the date of execution of this AGREEMENT at 300 North Flower Street, Room No. 551, Santa Ana, CA 92702, certificates of insurance and endorsements (certificates shall be in a form obtainable from COUNTY), in duplicate to satisfy COUNTY, that insurance requirements of this AGREEMENT have been complied with and to keep such insurance in effect and the certificates therefore on deposit with COUNTY, during the entire term of this AGREEMENT.

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

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

13 5. COUNTY, shall retain the right at any time to review the
14 coverage, form, and amount of the insurance required hereby. If, in the
15 opinion of DIRECTOR, the insurance provisions as described in this AGREEMENT
16 do not provide adequate protection for COUNTY, COUNTY may require A/E to
17 obtain insurance sufficient in coverage, form, and amount to provide adequate
18 protection. COUNTY's requirements shall be reasonable but shall be designed
19 to assure protection from and against the kind and extent of the risks which
20 exist at the time a change in insurance is required.

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

25 7. COUNTY shall notify A/E in writing of changes in the
26 insurance requirements; and if A/E does not deposit copies of acceptable

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certificates and endorsements with COUNTY incorporating such changes within fourteen days of receipt of such notices, this AGREEMENT shall be in default without further notice to A/E, and COUNTY, shall be entitled to all legal remedies.

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

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

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

11. Minimum insurance company ratings as determined by the most 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 Size Category).

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

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

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

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

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

b. A clause stating, "This insurance shall not be cancelled, reduced in scope or coverage, changed or amended until after thirty (30) days written notice has been given to: DIRECTOR, Orange County Public Works, at 300 North Flower Street, Santa Ana, CA 92703-5000; and, Orange County Risk Management Services, P.O. Box 327, Santa Ana, CA 92702." This shall be evidenced by an endorsement separate from the Certificate of Insurance. In addition, the cancellation clause must include language as follows, which edits the pre-printed ACCORD certificate:

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1 **SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED**
2 **BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY**
3 **WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE**
4 **HOLDER NAMED TO THE LEFT.**

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

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

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

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

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

18 **N. Indemnification**

19 A/E agrees to, indemnify, defend with counsel approved in writing
20 by COUNTY, and hold COUNTY, its elected and appointed officials, officers,
21 employees, agents and those special districts and agencies which COUNTY's
22 Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES")
23 harmless from any claims, demands or liability of any kind or nature,
24 including but not limited to personal injury or property damage, arising out
25 of, pertaining to, or relating to the negligence, recklessness, or willful
26 misconduct of the A/E. If judgment is entered against A/E and COUNTY by a

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1 court of competent jurisdiction because of the concurrent active negligence
2 of A/E and COUNTY or COUNTY INDEMNITEES, A/E and COUNTY agree that liability
3 will be apportioned as determined by the court. Neither party shall request
4 a jury apportionment. Notwithstanding anything stated above, nothing
5 contained herein shall relieve A/E of any insurance requirements or
6 obligations created elsewhere in this AGREEMENT.

7 O. Award of Construction Agreement and Other Future Contracts

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

18 P. Amendments

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

24 Q. Successors and Assigns

25 The terms and provisions of this AGREEMENT shall be binding upon
26 and inure to the benefit of the parties hereto and their successors and

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1 assigns.

2 R. Entirety

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

5 S. Severability

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

10 T. Binding Obligation

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

15 U. Governing Law and Venue

16 1. This AGREEMENT has been negotiated and executed in the
17 State of California and shall be governed by and construed under the
18 laws of the State of California. In the event of any legal action to
19 enforce or interpret this AGREEMENT, the sole and exclusive venue shall
20 be a court of competent jurisdiction located in Orange County,
21 California, and the PARTIES hereto agree to and do hereby submit to the
22 jurisdiction of such court, notwithstanding Code of Civil Procedure,
23 Section 394.

24 2. The PARTIES specifically agree that by soliciting and
25 entering into and performing PROJECTS/SERVICES under this AGREEMENT, the A/E
26 shall be deemed to constitute doing business within Orange County from the

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time of solicitation of work, through the period when all PROJECTS/SERVICES under this AGREEMENT is completed, and continuing until the expiration of any applicable limitations period.

V. Child Support Enforcement Requirements

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

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

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

W. Ownership of Documents

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

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

X. Confidentiality

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

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

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

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Y. Publication

1. No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this AGREEMENT, are to be released by A/E and/or anyone acting under the supervision of A/E to any person, partnership, company, corporation, or agency, without prior written approval by the COUNTY, except as necessary for the performance of the services of this AGREEMENT. All press contacts, including graphic display information to be published in newspapers, magazines, etc., are to be administered only after COUNTY approval.

2. The A/E agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this AGREEMENT or any subsequent amendment of, or effort under this AGREEMENT. A/E's must first obtain review and approval of said media contact from the COUNTY through the COUNTY'S Project Manager. Any requests for interviews or information received by the media should be referred directly to the COUNTY. A/E's are not authorized to serve as a media spokespersons for COUNTY projects without first obtaining permission from the COUNTY Project Manager.

Z. Records and Audit/Inspections

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

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

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

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

AA. Notices

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

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

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

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For A/E:

Name: Atkins North America, Inc.
Address: 625 The City Drive South, Suite 200
City: Orange, CA 92868
Attn: Romeo Firme
Phone: 714 591-2510
E-mail: romeo.firme@atkinsglobal.com
Fax: 714 750-2501

For COUNTY:

Name: OC Public Works/OC Eng./Road
Address: 300 N. Flower Street
P.O. Box 4048
City: Santa Ana, CA 92702-4048
Attn: Javid Sharifi, Manager, Road Capital Project
Phone: 714 245-4556
E-mail: Javid.Sharifi@ocpw.ocgov.com
Fax: 714 667-7531

AB. Attorney's Fees

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

AC. Interpretation

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

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.

4. Accordingly, any rule of law (including California Civil Code

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1 Section 1654) or legal decision that would require interpretation of any
2 ambiguities in this AGREEMENT against the PARTY that has drafted it is not
3 applicable and is waived.

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

6 **AD. Headings**

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

11 **AE. Acceptance**

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

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

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

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

22 **AG. Remedies Not Exclusive**

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

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AH. Independent Contractor

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

AI. Bills and Liens

A/E shall pay promptly all indebtedness for labor, materials and 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 shall promptly procure its release and, in accordance with the requirements of the indemnification paragraph above, indemnify, defend, and hold COUNTY harmless and be responsible for payment of all costs, damages, penalties and expenses arising from or related thereto.

AJ. Changes

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

AK. Assignment

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

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AL. Changes in Ownership

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

AM. Force Majeure

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

AN. Compliance with Laws

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

2. A/E acknowledges that COUNTY is relying on A/E for such compliance, and pursuant to the requirements of the indemnification paragraph

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above, A/E agrees that it shall defend, indemnify and hold COUNTY and COUNTY INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

AO. Calendar Days

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

AP. Breach of Contract

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

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

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

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

AQ. Default

1. In the event any equipment or service furnished by the A/E in the performance of this AGREEMENT should fail to conform to the specifications therein within one (1) calendar year from the COUNTY's acceptance of the equipment or service, or any performance period specifically specified within the specifications or AGREEMENT, whichever is greater, the COUNTY may reject same, and it shall become the duty of the A/E to reclaim and remove the items without expense to the COUNTY and to

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1 immediately replace all such rejected equipment or service with others
2 conforming to such specifications, provided that should the A/E fail, neglect
3 or refuse to do so within one hundred and twenty (120) calendar days, the
4 COUNTY shall have the right to purchase on the open market a corresponding
5 quantity of any such equipment or service and to deduct from any monies due
6 or that may thereafter become due to the A/E the difference between the price
7 specified in this AGREEMENT and the actual cost to the COUNTY.

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

12 3. In the event of the cancellation of this AGREEMENT, either in
13 whole or in part, by reason of the default or breach by the A/E, any loss or
14 damage sustained by the COUNTY in procuring any equipment or service which
15 the A/E agreed to supply under this AGREEMENT shall be borne and paid for by
16 the A/E.

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

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

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

AR. Conflict of Interest Contractor Personnel

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

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

AS. Title to Data

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

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

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AT. Availability of Funds

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

AU. Contingency of Funding

A/E acknowledges that funding or portions of funding for this AGREEMENT may also be contingent upon receipt of funds from and/or appropriation of funds by the State of California or other funding entity to COUNTY. If such funding and/or appropriations are not forthcoming, or otherwise limited, COUNTY may immediately terminate or modify this AGREEMENT without penalty.

AV. Contract Construction

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

AW. Waiver of Jury Trial

Each PARTY acknowledges that it is aware of and has had the 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, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any PARTY hereto against the other (and/or against its officers,

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directors, employees, agents, or subsidiary or affiliated entities) on or
with regard to any matters whatsoever arising out of or in any way connected
with this AGREEMENT and/or any other claim of injury or damage.

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

3 Atkins North America, Inc.,
4 a Florida Corporation,

5 Date: 12/06/2011

By 

6 Romeo Firme, Senior Group Manager
7 Print Name & Title

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

11 Date: 12/06/2011

By 

12 Thomas Biggs, Vice President
13 Print Name & Title

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

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

20 Date: _____

By _____

21 Chair of the Board of Supervisors
22 Orange County, CA

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

26 Attest:

Date: _____

~~Darlene J. Bloom~~

Clerk of the Board of Supervisors
County of Orange, California

27 Date: 1/5/12

28 APPROVED AS TO FORM

29 Office of the County Counsel
30 Orange County, California

By: 

Deputy

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ATTACHMENT A SCOPE OF WORK

I. Introduction

OC Public Works, on behalf of the COUNTY is seeking specialty support services to meet workload demands and project scheduling commitments. In order to supplement COUNTY's existing resources, the specialty areas and associated tasks follow.

II. Scope of Work

It is anticipated that there will be several work products, "Project Specific Scopes of Work", resulting from this AGREEMENT. The requested services consist, in general, of preparation of Type Selection Reports, Plans, Special Provisions and Engineer's Estimate (PS&E), and Independent Checks for the construction of new or rehabilitation of existing bridges. Certain related support services as described herein may also be requested. This General Scope of Work exemplifies the types of work that may be required.

A/E tasks may include, but may not be limited to, the following:

A. Type Selection Report

The A/E may be required to prepare engineering studies, traffic safety investigations, and reports, in conformance with industry standards and County of Orange and State Report Format. Deliverables shall include the A/E's reviewing of existing documents, visiting project site, identifying and evaluating conceptual design issues based on existing and ultimate conditions, preparing preliminary calculations and cost estimates, identifying access and detour concepts and determining all major issues affecting budget, construction phasing,

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prioritization and schedule. Also, the report shall recommend the most practical, feasible and cost effective solution and justify the chosen alternative. To ensure proper project development, A/E shall attend and conduct project status meetings with staff and with others as required to discuss status and/or details of project

B. Plans, Special Provisions & Estimates (PS&E)

The A/E, as directed by COUNTY, shall prepare the plans, special provisions and final design calculations and estimates as necessary for the project in accordance with the following regulatory, highway and bridge standards:

- a. CEQA determination
- b. Regulatory permits
- c. Orange County/OC Public Works Standard Plans (bridge typical section)
- d. Orange County Highway Design Manual
- e. Caltrans Highway Design Manual (provisions not addressed in Orange County Highway Design Manual)
- f. California Manual on Uniform Traffic Control Devices (CA MUTCD)
- g. Orange County Flood Control District Design Manual
- h. AASHTO LRFD Bridge Design Specifications as modified by Caltrans (Caltrans BDS prior to 2006 adoption of AASHTO LRFD)
- i. Caltrans Seismic Design Criteria
- j. Caltrans Bridge Design Manuals
- k. Caltrans Standard Plans
- l. Caltrans Standard Special Provisions (SSPs) & Reference Specifications
- m. Caltrans Standard Specifications
- n. Caltrans CAD Standards

C. Utilities:

Unless directed otherwise, County will provide initial and second (1st and 2nd) utility notice coordination with the utility companies within limits of project and will determine prior rights and future needs. A/E shall ensure that project's final design is compatible with all utilities in project area to be installed, relocated, adjusted or

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1 otherwise modified, including adding utility relocation windows in the
2 construction special provisions as necessary. A/E shall also provide
3 utility dispositions identifying existing utility locations above and
4 below ground by station, offset and elevation and describing their
5 disposition. County will issue Notice to Relocate to utilities
6 requiring such.

7 **D. Rights-of-Way:**

8 The A/E will identify R/W needs for the project as necessary
9 including preparing maps, legal descriptions, title reports, final
10 record maps and other necessary documents for the identification of
11 existing and proposed rights-of-way and easements for slope, drainage,
12 access and temporary construction.

13 **E. Bridge Hydraulic Analysis**

14 The A/E, as directed by the COUNTY, may be required to prepare
15 hydraulic analysis in accordance with the "Hydraulic Report" section of
16 the Caltrans Office of Special Funded Projects (OSFP) Information and
17 Procedures Guide.

18 **F. Bridge Scour Study**

19 The A/E, as directed by the COUNTY, may be required to conduct
20 scour study and make recommendations for design of the bridge in
21 accordance with Section 2.6, "Hydrology and Hydraulics," of the AASHTO
22 LRFD.

23 **G. Geotechnical Investigation/Report**

24 The A/E, as directed by the COUNTY, may be required to prepare
25 geotechnical reports in accordance with the "Foundation Report" section
26 of the Caltrans OSFP Information and Procedures Guide.

H. Independent Check

The A/E, as directed by the COUNTY, may be required to conduct an independent check of the bridge in accordance with the "Structure Calculations" section of the Caltrans OSFP Information and Procedures Guide.

I. Minor Roadway/Channel Improvements

The A/E, as directed by the COUNTY, may be required to prepare plans, special provisions and estimates for minor roadway and channel improvements in accordance with local, COUNTY and Caltrans standards, e.g.:

- 1) Approach roadways
- 2) Approach railings
- 3) Slope, invert and pier armor to protect bridges against stream erosion, scour and sediment transport.

J. Minor Structures

The A/E, as directed by the COUNTY, may be required to prepare plans, special provisions and estimates for minor structures in accordance with local, COUNTY and Caltrans standards, e.g.:

- 1) Tieback walls
- 2) MSE walls
- 3) Mortarless concrete block gravity walls
- 4) Overhead & bridge mounted signs and light standards.

K. Traffic Control/Signing & Striping Plan

The A/E, as directed by the COUNTY, may be required to prepare traffic control plans and/or bridge signing and striping plans in accordance with the California Manual on Uniform Traffic Control Devices (CAMUTCD) using local, COUNTY and Caltrans Standard Plans and Specifications.

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L. Construction Support

The A/E, as directed by the COUNTY, may be required to provide construction support services for Bridge projects that include, but are not limited to the following: review and provide design clarification on approved plans and specifications; identify, prepare, and recommend contract change orders; perform cost analysis for unforeseen conditions and extra work; resolve planning, design, construction, and scheduling conflicts/disputes; review shoring design and calculations; coordinate, monitor, and advise on overall project schedule; review and approve water quality practices, traffic control plans, shop drawings and calculations for temporary structures (i.e. trench shoring, false work, and other temporary structural forms); review, evaluate, and analyze potential claims; and assist in community and media relations.

III. Work Requirements

A/E shall be responsible for submitting all work to County in a form which has been thoroughly reviewed and checked for completeness, accuracy and consistency. Any work not meeting this requirement will be returned to A/E.

All work shall be performed in accordance with instructions, criteria and standards set forth by the County and Agreement.

IV. A/E's Responsibility

A. A/E shall provide all of the management, personnel, space, equipment and materials requisite to the provision of service.

B. A/E shall provide project administrative services as required by County Project Manager, to facilitate effective project coordination, project comments, coordination with County Departments, and reports as required by County Project Manager

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- 1 C. All work shall be performed by properly licensed personnel
2 qualified to perform the specific tasks as required by the State
3 of California.
- 4 D. A/E shall furnish the transport, requisite to the performance of
5 service, of all documents to be picked up or delivered to County,
6 and all documents for which transport originates in the office of
7 A/E, and/or in offices of A/E's associations. Transport shall be
8 expedited by one of the following methods:
- 9 1. Prompt hand-carry by staff of A/E or A/E's associates.
10 2. Express Service of a common carrier.
- 11 E. Prior to the commencement of service, on each specific project,
12 A/E shall review the compensation to be provided to A/E as
13 calculated by County. Service shall not proceed until A/E and
14 County concur upon the amount of the compensation. Concurrence
15 may be reached via phone conversation, which shall be followed by
16 written verification.
- 17 F. A/E shall perform the service in accordance with the standards of
18 care and diligence normally practiced by recognized engineering
19 firms or professional firms in the performance of service of a
20 similar nature.
- 21 G. A/E shall correct error(s) in service, with no expense to County,
22 when County shall show that the error(s) is due to failure of A/E
23 to meet the standards required in Paragraph F, preceding.
- 24 H. A/E shall not be responsible for error(s) in service, when A/E
25 shall show that the error(s) is due to the incompleteness, or the
26 inaccuracy, of the information furnished to A/E by County.

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I. A/E shall provide a project status on a regular (to be determined)
basis to the County.

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ATTACHMENT B A/E's Pricing (Fee Schedule)

I. Compensation

This is an all-inclusive usage AGREEMENT between COUNTY and A/E for On-Call Support Services, as set forth in Attachment A, "Scope of Work".

A/E agrees to accept the specified compensation as set forth in this AGREEMENT as full remuneration for performing all services and furnishing all staffing, labor, vehicles, equipment, tools, materials, overhead, travel, etc. required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by A/E of all its duties and obligations hereunder. A/E shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. COUNTY shall have no obligation to pay any sum in excess of the Total AGREEMENT Amount specified herein below unless authorized by amendment in accordance with Paragraphs P and AJ of the COUNTY AGREEMENT Terms and Conditions.

II. Pricing

Payments shall be made in accordance with the provisions of this AGREEMENT and upon acceptance of services at the discretion of the COUNTY. Method of payment may be a negotiated lump sum or at an hourly rate with a not-to-exceed amount. Partial payment may be allowed at the COUNTY's discretion. Separate invoices shall be submitted to COUNTY indicating the actual number of hours worked, itemized separately for each Project Specific Scope of Work, including all reimbursable items for which payment is sought (Per Article J of AGREEMENT, budget adjustments between task items may be made with approval of DIRECTOR, or designee). Payment based on hourly rate

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shall be as follows:

Classification/Titles	Hourly Rate
<u>Atkins North America, Inc.</u>	
Principal-in-Charge	\$250
Project Manager	\$205
Project Engineer	\$180
Roadway Engineer	\$185
Hydrology/Hydraulics	\$220
Erosion & Sediment	\$275
Traffic	\$135
CAD	\$165
<u>Group Delta Consultants, Inc.</u>	
Senior Principal Engineer/Geologist	\$225
Associate Engineer/Geologist	\$160
<u>Coast Surveying, Inc.</u>	
Survey Manager	\$170
Project Manager	\$145
Survey Technician	\$112
2 person Survey party w/ equipment	\$161

III Price Increase/Decrease

No price increases will be permitted during the first period of the AGREEMENT. All price decreases will automatically be extended to COUNTY. COUNTY requires bona fide proof of cost increases on agreements prior to any price adjustment. A minimum of ninety (90) days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. COUNTY may enforce, adjust, negotiate, or cancel escalating price agreements or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the AGREEMENT. Adjustments increasing the A/E's profit will not be allowed.

IV. Firm Discount and Pricing Structure

A/E guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of

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equal or lesser scope. A/E agrees that no price increases shall be passed along to COUNTY during the term of this AGREEMENT not otherwise specified and provided for within this AGREEMENT.

V. A/E's Expense

A/E will be responsible for all costs related to photo copying, telephone communications and fax communications while on COUNTY sites during the performance of work and services under this AGREEMENT.

VI. Reimbursable Items

Reimbursable items are non-salary items that are not included in the Scope of Work but necessary for completion of the work and must be authorized in advance by the COUNTY. Invoices for reimbursable items shall be identified as such and include copies of receipts or other proof of payment as determined by the COUNTY. Reimbursable items shall be charged at cost.

VII. Payment Terms

Invoices are to be submitted in monthly arrears, after services have been completed, to the address specified below. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to the COUNTY, as applicable. Invoices shall be verified and approved by COUNTY, as applicable, and subject to routine processing requirements. The responsibility for providing an acceptable invoice to COUNTY, as applicable, for payment rests with A/E. Incomplete or incorrect invoices are not acceptable and will be returned to the A/E for correction.

Billing shall cover services and/or goods not previously invoiced. The A/E shall reimburse the COUNTY, as applicable, for any monies paid to the A/E for goods or services not provided or when goods or services do not meet the AGREEMENT requirements.

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Payments made by COUNTY, as applicable, shall not preclude the right of COUNTY, as applicable, from thereafter disputing any items or services involved or billed under this AGREEMENT and shall not be construed as acceptance of any part of the goods or services.

VIII. Invoicing Instructions

The A/E will provide an invoice on the A/E's letterhead. Each invoice will have a unique number and will include the following information:

- a. A/E's name and address
- b. A/E's remittance address, if different from (a), above
- c. Name of COUNTY agency/department
- d. Delivery/service address
- e. AGREEMENT number
- f. Service Date
- g. Description of Services
- h. Total
- i. Taxpayer ID number

Invoices and support documentation are to be forwarded to:

OC Public Works/Administration Services
Attn: Accounting Services
300 N Flower Street, 8th Fl.
P.O. Box 4048
Santa Ana, CA 92702-4048

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ATTACHMENT C Staffing Plan

I. A/E Key Personnel

Name	Classification/ Designation	Licenses Cert. (Number)	Yr(s) of Exp.	Length with Firm
PBS&J				
Ben Sprague	Principal-in-Charge	CE 42998	26	8
Miguel Carbuccia	Project Manager/ Project Engineer	CE 70531	10	8
Sami Megally	Project Manager/ Project Engineer	CE 65520	21	7
Paul Morel	Project Manager/ Project Engineer	CE 68491	9	9
Yi-Jong Shangkuan	Project Engineer	CE 22436	49	5
Sam Xie	Project Engineer	CE 51942	21	2
Eva Cheung	Project Engineer	CE 73353	4	3
Lara Khaleghi	Project Engineer		2	2
Nathaniel Adam	Roadway	CE 48727	31	6
Cenk Yavas	Hydrology/Hydraulics	CE 54756	25	5
Gary Yagade	Erosion & Sediment	CE 43204	26	7
Theresa Gaisser	Traffic	CE 69442	9	9
Emily Flagg	Traffic	CE 68614	12	11
Gary Buelow	Construction Support		21	19
Group Delta Consultants, Inc.				
Curt Scheyhing		GE 2766	15	15
		CE 59216		
Kul Bhushan		GE 144		13
		CE 22766		
Coast Surveying, Inc.				
Ruel del Castillo		LS 4212	45	28

A/E understands that the individuals represented as assigned to the PROJECT must remain working on the PROJECT throughout the duration of the PROJECT unless otherwise requested or approved by COUNTY, as applicable. Substitution of A/E's Key Personnel shall be allowed only with prior written approval of COUNTY's Project Manager

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A/E may reserve the right to involve other A/E personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/classification required. Assignment of additional key personnel shall be subject to COUNTY, as applicable, written approval. COUNTY, as applicable, reserves the right to have any of A/E personnel removed from providing services to COUNTY, as applicable, under this AGREEMENT. COUNTY, as applicable, is not required to provide any reason for the request for removal of any A/E personnel.

II. Subcontractor(s)

Listed below are subcontractor(s) anticipated by A/E to perform services specified in Attachment A. Substitution or addition of A/E's subcontractors in any given project function shall be allowed only with prior written approval of COUNTY.

Company Name & Address	Contact Name and Telephone Number	Project Function
Group Delta Consultants, Inc. 32 Mauchly, Suite B Irvine, CA 92618	Curt Scheyhing 949 450-2100 ext. 222	Hydraulics
Coast Surveying, Inc. 15031 Parkway Loop, Suite B Tustin, CA 92780	Ruel del Castillo 949 918-6266	Survey

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Exhibit 1
Orange County Child Support Enforcement
Certification Requirements

In order to comply with child support enforcement requirements of Orange County, within ten (10) days of award of contract, the successful contractor must furnish to the Contract Administrator, Purchasing Agent or the agency/department Deputy Purchasing Agent:

- A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address;
- B. In the case of a contractor doing business in a form other than as an individual, 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;
- C. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- D. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

The certifications will be stated as follows:

"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 _____ with Orange County. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 10 calendar days of notice from the County shall constitute grounds for termination of the contract."

It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders and for no other purposes and will be held confidential by

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those agencies.

Failure of the contractor to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the contract. Failure to cure such breach within 10 calendar days of notice from the County shall constitute grounds for termination of the contract.

After notification of award, the successful contractor may use the forms supplied herein, to furnish required information listed above.

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ORANGE COUNTY CHILD SUPPORT ENFORCEMENT CERTIFICATION REQUIREMENTS

INSTRUCTIONS:

UPON NOTIFICATION OF CONTRACT AWARD/REQUEST FOR RENEWAL, COMPLETE **PART I**
AND **PART II**.

PART 1

- 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 10 calendar days of
notice from the County shall constitute grounds for termination of the
contract.

AUTHORIZED SIGNATURE

PRINTED NAME

TITLE

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Exhibit 2 EDD Independent Contractor Reporting Requirements

Effective January 1, 2001, Orange County 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 a Contract 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 a Contract 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 "an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract 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.

To comply with the reporting requirements, County procedures for contracting with independent contractors mandate that the following

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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 10 calendar days of notice from the County shall constitute grounds for termination of the contract.

AUTHORIZED SIGNATURE _____

PRINTED NAME _____

TITLE _____

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