

AGREEMENT

THIS AGREEMENT, hereinafter referred to as “AGREEMENT” for purposes of identification hereby numbered MA-080-11011371, and dated 17th day of May 20 11 is

BY AND BETWEEN

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

AND

RBF Consulting,, a California 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 Attachment A - Scope Of Work for A/E Stormwater Permit Implementation Assistance Services, hereinafter referred to as “Attachment A,” attached hereto and incorporated herein by reference;

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

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

A. Retainer

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

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 RBF Consulting.

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. **RBF Consulting**

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. PROJECT/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, 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 10 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 15 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) or at least once every 2 weeks with COUNTY 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.

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

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

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

C. Assistance by COUNTY

1. COUNTY shall assign an appropriate staff member to work with A/E in connection with the work of this AGREEMENT. Said staff member's duties will consist of the giving of

advice and consultations, assisting A/E in negotiations with other public agencies and private parties, miscellaneous items which in the judgment of A/E or COUNTY's staff warrant attention, and all other duties as may be described in Attachment A.

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

D. Non-Employment of COUNTY Personnel

1. A/E agrees that no full-time, regular employee of COUNTY who is involved in this Project shall be given or offered employment by A/E in a participatory status during the life of this AGREEMENT regardless of the assignments said employee may be given or the days or hours employee may work. By accepting this AGREEMENT, A/E agrees not to negotiate any employment opportunity with any COUNTY full-time, regular employee who is involved in this Project in professional classifications of the same skills required for the performance of this AGREEMENT.

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

E. Non-Discrimination

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

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

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 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, Extension and Maximum Compensation of Agreement

~~The term of this AGREEMENT is for one (1) year renewable for two (2) additional one year periods commencing on the date of execution by the Board of Supervisors, with a maximum allowable compensation of \$250,000.00.~~

AMENDMENT #1 (RENEWAL)

The term of this AGREEMENT is for one (1) year renewable for ~~two~~ one (2-1) additional one year periods commencing on ~~the date of execution by the Board of Supervisors~~ May 17, 2012, with a maximum allowable compensation of \$250,000.00.

AMENDMENT #2 (RENEWAL)

The term of this AGREEMENT is for one (1) year ~~renewable for one (1) additional one~~ year periods commencing on ~~the date of execution by the Board of Supervisors~~ May 17, 2013, with a maximum allowable compensation of \$250,000.00.

J. A/E Compensation

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.

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 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 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. 838, Santa Ana, CA 92703, 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.

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

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

5. COUNTY, shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of DIRECTOR, the insurance provisions as described in this AGREEMENT do not provide adequate protection for COUNTY, COUNTY may require A/E to obtain insurance sufficient in coverage, form, and amount to provide adequate 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 exist at the time a change in insurance is required.

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

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

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 with broad form and contractual liability	\$1,000,000 combined single limit per occurrence; \$2,000,000 aggregate
Auto Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 combined single limit per occurrence
Professional Liability (Errors and Omissions)	\$1,000,000 claims made

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:

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

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

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

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

f. A clause stating, “Workers’ Compensation insurance shall waive all rights of subrogation against the ‘County of Orange’.”

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

N. Indemnification

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

O. Award of Construction Agreement and Other Future Agreements

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

P. Amendments

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

Q. Successors and Assigns

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

R. Entirety

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

S. Severability

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

T. Binding Obligation

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

U. Governing Law and Venue

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

2. The PARTIES specifically agree that by soliciting and entering into and performing PROJECTS/SERVICES under this AGREEMENT, the A/E shall be deemed to constitute

doing business within Orange County from the 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.

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.

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 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.
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.

For A/E:

Name: RBF Consulting
Address: 14725 Alton Parkway
Irvine, CA 92618

Attn: Daniel Apt
Phone: 949-330-4117
Fax: 949-586-6531
E-mail: dapt@rbf.com

For COUNTY:

Name: OC Public Works/Watershed
Address: 2301 N. Glassell Street
Orange, CA 92865

Attn: Jennifer Shook
Phone: 714-955-0671
Fax: 714-955-0639
E-mail: jennifer.shook@ocpw.ocgov.com

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

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

AD. Headings

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

AE. Acceptance

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

AF. Consent to Breach not Waiver

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

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

AG. Remedies Not Exclusive

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

AH. Independent Contractor

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

2. 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 merger by acquisition, 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.

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 DISTRICT 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 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 immediately replace all such rejected equipment or service with others conforming to such specifications, provided that should the A/E fail, neglect or refuse to do so within one hundred and twenty (120) calendar days, the COUNTY shall have the right to purchase on the open market a corresponding quantity of any such equipment or service and to deduct from any monies due or that may thereafter become due to the A/E the difference between the price specified in this AGREEMENT and the actual cost to the COUNTY.
2. In the event the A/E shall fail to make prompt delivery as specified of any equipment or service, the same conditions as to the rights of the COUNTY to purchase on the open market and to reimbursement set forth above shall apply, except as otherwise provided in this AGREEMENT.
3. In the event of the cancellation of this AGREEMENT, either in whole or in part, by reason of the default or breach by the A/E, any loss or damage sustained by the COUNTY in procuring any equipment or service which the A/E agreed to supply under this AGREEMENT shall be borne and paid for by the A/E.

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

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

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.

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. 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 or attachments/exhibits hereto.

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

RBF CONSULTING*

a state of California corporation

By _____

Print Name _____

Title _____
Corporate Officer

Date _____

By _____

Print Name _____

Title _____
Corporate Officer

Date _____

COUNTY OF ORANGE

a political subdivision of the State of California

By _____

Print Name _____

Title _____

Date _____

APPROVED AS TO FORM:

County Counsel

By _____
Deputy

Date _____

* If the contracting party is a corporation, (2) two signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signator to bind the corporation.

**ATTACHMENT A
SCOPE OF WORK**

I. BACKGROUND

Contractor shall provide County with Stormwater Permit Implementation Assistance Services.

II. OBJECTIVES

Contractor shall assist the County of Orange, Orange County Flood Control District and cities of Orange County (collectively the "Permittees") with completing the update of the 2003 DAMP and its subsequent implementation in response to the Fourth Term Permits in the following general program areas:

- A. Program management (DAMP section 2)
- B. Plan development (DAMP Section 3)
- C. Municipal activities (DAMP Section 5)
- D. New development and significant redevelopment (DAMP Section 7)
- E. Construction (DAMP Section 8)
- F. Existing development. (DAMP Section 9)
- G. Illegal discharges/illicit connections (DAMP Section 10)
- H. Watershed planning and TMDL compliance (DAMP Section 12)
- I. Training (DAMP Appendix B)

The primary objective of this assistance to the Permittees is to maintain ongoing compliance under the Fourth Term Permits. The specific services desired are described below in **Section III**.

III. SERVICES AND WORK PRODUCTS

Fourth Term Permit implementation assistance services and work products shall be consistent with, and based on, the objectives listed in **Section II** above. The scope of services and work products to be performed are described in the tasks below. These tasks include a brief description of the type of work to be performed, which will be further defined through Task Orders upon County request. Task 9 recognizes that the regulatory compliance nature of the program may result in requirements that are not currently anticipated. The Task Orders will define the tasks, subtasks and associated deliverables and will be approved by the County's Project Lead up to the maximum task cost, identified in **Section IV**.

A. TASKS**1. TASK 1 AGREEMENT ADMINISTRATION/PROGRAM MANAGEMENT**

This task involves biweekly conference call briefings, which will be held as necessary when work products are in progress in order to provide direction to RBF. A brief written summary of key issues and action items will be provided.

When work products are in progress, a brief written summary of progress and planned activities will be prepared in a format approved by the County Project Lead on a monthly basis.

Task Products:

- *Biweekly briefings when work products are in progress*
- *Monthly brief written summary when work products are in progress*

2. TASK 2 DEVELOPMENT OF NEW/REVISED PROGRAM ELEMENTS

This task involves the development of new or revised program elements to comply with the Fourth Term Permit requirements, and may be conducted in conjunction with work performed separately by County staff or other consultants. Work may include, but is not limited to:

- Reviewing other municipal stormwater programs and models developed for ensuring environmental regulatory compliance to identify successful program elements and/or tools that the Orange County Stormwater Program may incorporate;
- Developing new or revised programs/program elements and management tools supportive of plan development, municipal activities, new development, construction, existing development, ID/IC and watershed action plans;
- Functionally updating the DAMP and/or associated programmatic and technical guidance documents and responding to Permittee review and comment;
- Assisting with implementation of management program elements; and
- Reviewing, interpreting and responding to comments received from the Permittees and Regional Water Board staff and finalizing the DAMP and/or associated documents.

Task Products:

Contractor shall provide County with an electronic copy in Word and/or Adobe (pdf) formats, as appropriate, will be provided for the following task products:

- *Draft Task Orders (as requested)*
- *Final Task Orders incorporating the comments received on the draft*
- *Work Products as defined by Task Orders*

3. TASK 3 TRAINING PROGRAM

This task involves modifying existing and/or developing new training modules as needed. Work may include, but is not limited to:

- Revision of existing training modules and/or development of new training modules as well as surveys or quizzes to determine effectiveness;

- Revision of the comprehensive training program for program managers, authorized inspectors, construction inspectors, planners and plan checkers;
- Delivery of Qualified SWPPP Preparer (QSP) and Qualified SWPPP Developer (QSD) training;
- Providing support during any training or field exercises that are conducted for the Countywide Area Spill Control (CASC) project;
- Developing innovative approaches to training including web-based, hands-on training, and field-based training approaches, etc.;
- Developing competency development logs and certificates of proficiency verifying the trainee's established level of experience and skill relating to each of the key areas of program responsibility; and
- Coordination with other regional stormwater training programs including Riverside County, San Bernardino County, LA County, San Diego County, Regional Water Boards or the California Stormwater Quality Association (CASQA).

Task Products:

An electronic copy in Word and/or Adobe (pdf) formats, as appropriate, will be provided for the following task products:

- *Draft Task Orders (as requested)*
- *Final Task Orders incorporating the comments received on the draft*
- *Work Products as defined by Task Orders*

4. TASK 4 AUDITABLE MANAGEMENT SYSTEMS

This task involves assisting the Permittees with identifying and implementing practices, procedures and processes for maintaining regulatory compliance at the countywide and jurisdictional levels. A key element of this task will likely be assistance with the identification and incorporation of effectiveness assessment measures into the DAMP and annual reports based on CASQA and/or State guidance. Work may include, but is not limited to:

- Creating verification processes to objectively obtain and evaluate evidence to determine whether regulatory compliance is being maintained;
- Developing and evaluating measurable outputs of the compliance program, as part of the program effectiveness assessment, relating

to the Permittees' efforts to protect and improve water quality based upon DAMP implementation; and

- Enhancing the DAMP with the purpose of achieving improvements in water quality and overall environmental performance.

Task Products:

An electronic copy in Word and/or Adobe (pdf) formats, as appropriate, will be provided for the following task products:

- *Draft Task Orders (as requested)*
- *Final Task Orders incorporating the comments received on the draft*
- *Work Products as defined by Task Orders*

5. TASK 5 ANALYSES USING GIS, MODELING AND STATISTICAL APPROACHES

This task involves performing analyses using GIS, modeling, and statistical approaches to evaluate management plan, BMP performance and BMP retrofitting opportunities at site, sub-watershed and watershed scales. Work may include, but is not limited to:

- Modeling to support development, verification and/or validation of water quality and stream restoration management strategies;
- Identifying opportunities to retrofit existing stormwater conveyance systems, parks and other recreational areas with water quality protection measures;
- Developing prioritization criteria based on a previously conducted retrofit study and requirements identified in the Fourth Term San Diego Region Permit;
- Developing a program framework for encouraging retrofit projects on private developments;
- Comparing identified regional retrofit sites, from the existing retrofit study with an inventory of existing development type areas;
- Coordinating activities with OCTA and other entities engaged in stormwater management and retrofitting; and
- Developing proposals for additional retrofit studies that incorporate opportunities for addressing any applicable TMDL implementation plans.

Task Products:

An electronic copy in Word and/or Adobe (pdf) formats, as appropriate, will be provided for the following task products:

- *Draft Task Orders (as requested)*
- *Final Task Orders incorporating the comments received on the draft*
- *Work Products as defined by Task Orders*

6. TASK 6 DRAINAGE AREA MANAGEMENT PLAN CEQA DOCUMENTATION

This task involves the development of the necessary California Environmental Quality Act (CEQA) documents during and after the DAMP revision to incorporate new requirements for the Fourth Term Permit. The document(s) will evaluate the potential significant impacts to the environment anticipated to result from the implementation of the proposed programs within the DAMP. The anticipated document will be a Mitigated Negative Declaration, however if alternate CEQA documentation is required the scope of the anticipated work will be developed. Work may include, but is not limited to:

- Reviewing the revised DAMP and identify any environmental impacts anticipated to result from the implementation of the stormwater program;
- Providing the documentation necessary to comply with CEQA, likely an Initial Study/Draft Mitigated Negative Declaration;
- Reviewing, interpreting and responding to comments received after the 30-day public review period and finalizing the associated documents; and
- Providing any additional support to the County as requested.

Task Products:

An electronic copy in Word and/or Adobe (pdf) formats, as appropriate, will be provided for the following task products:

- *Draft Task Orders (as requested)*
- *Final Task Orders incorporating the comments received on the draft*
- *Work Products as defined by Task Orders*

7. TASK 7 PERMIT CHALLENGE/REGULATORY ASSISTANCE

This task involves providing assistance in the event that the County and Permittees activate their Petitions for Review of the Fourth Term Permits. Other regulatory assistance may also be required and may include permit drafting, negotiations with Regional Water Board staff, reviewing and commenting on draft permits and other regulatory initiatives related to the permits such as TMDLs and other regulatory directives (including redline strike out versions of permits), preparation of regulatory and technical analyses, reviewing, interpreting and responding to comments received from Permittees and Regional Water Board staff, coordination with Permittees regarding regulatory comments, development of alternative compliance approaches and the development of graphics, presentations and testimony for Regional Water Board workshops and hearings.

Contractor will assist the County as needed with the above listed activities with the goal of achieving the following:

- Identifying and advocating for permit requirements/program modifications that more clearly focus the DAMP on the protection of receiving water quality and Maximum Extent Practicable (MEP) standard of compliance;
- Maintaining constructive dialogue with the regulators and Permittee staff in order to obtain broad support for the permit requirements; and
- Maintaining reasonable permit requirements over the period of the Fourth Term Permits.

Task Products:

An electronic copy in Word and/or Adobe (pdf) formats, as appropriate, will be provided for the following task products:

- *Draft Task Orders (as requested)*
- *Final Task Orders incorporating the comments received on the draft*
- *Work Products as defined by Task Orders*

8. TASK 8 WORK PLAN

The purpose of this task is to prepare a plan of work for the specific activities anticipated to be undertaken in the second year of the Agreement. The work plan shall include task costs and milestones/completion dates.

Task Products:

An electronic copy in Word and/or Adobe (pdf) formats, as appropriate, will be provided for the following task products:

- *Draft Work Plan for second year of the Agreement*
- *Final Work Plan for second year of the Agreement incorporating the comments received on the draft*

9. TASK 9 OTHER ACTIVITIES

The regulatory compliance nature of the program may result in requirements that are not currently anticipated. Tasks, sub-tasks and the corresponding deliverables will be approved by the County's Project Lead as necessary up to the maximum task cost.

Task Products:

An electronic copy in Word and/or Adobe (pdf) formats, as appropriate, will be provided for the following task products:

- *Draft Task Orders (as requested)*
- *Final Task Orders incorporating the comments received on the draft*
- *Work Products as defined by Task Orders*

IV. TASK SCHEDULE

Task Completion dates will be determined at the discretion of County Project Manager and Contractor.

**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.**

AMENDMENT #2 (RENEWAL)

II. PRICING: “TASK COST” below can be increased and decreased at the discretion of the Director of OCPW or his designee, and will not be used for auditing purposes; “Total Contract Amount” will remain unchanged.

TASK NUMBER	TASK COST
Task 1 – Agreement Administration/Project Management	\$12,000
Task 2 – Development of New/Revised Program Elements	\$70,000
Task 3 – Training Program	\$60,000
Task 4 – Auditable Management Systems	\$15,000
Task 5 – Analyses using GIS, Modeling and Statistical Approaches	\$25,000
Task 6 - Drainage Area Management Plan CEQA Documentation	\$40,000
Task 7 - Permit Challenge/Regulatory Assistance	\$15,000
Task 8 – Work Plan	\$3,000
Task 9 – Other Activities	\$10,000
Total Annual Contract Amount	\$250,000

III. PRICE INCREASES/DECREASES: 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 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. 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 COUNTY. Invoices shall be verified and approved by COUNTY and subject to routine processing requirements. The responsibility for providing an acceptable invoice to COUNTY 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 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.

Payments made by COUNTY shall not preclude the right of COUNTY 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.

- VII. 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
Purchasing and Contract Services
Attn: Accounts Payable
300 N Flower, 8th Fl.
Santa Ana, CA 92703

**ATTACHMENT C
STAFFING PLAN**

1. A/E KEY PERSONNEL

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. Substitution of A/E’s Key Personnel shall be allowed only with prior written approval of COUNTY’s Project Manager.

Name	Classification / Designation	Licenses/Certifications (include license / certification number)	Years of Experience	Length of Time with Firm (Yrs)
Scott Taylor, PE, D.WRE	Principal in Charge Permit / Regulatory Assistance Construction Task Leader	Professional Engineer #43053	26	26
Daniel Apt, CPESC, CPSWQ	Project Manager Permit / Regulatory Assistance Existing Development / Retrofit Auditable Management Systems Training	Certified Professional in Storm Water Quality #187; Certified Professional in Erosion and Sediment Control #3754	15	5
Karen Ashby, CPSWQ	Assistant Project Manager Permit / Regulatory Municipal Operations Task Leader Training Illegal Discharges / Connections Task Leader Training	Certified Professional in Storm Water Quality #0081	19	8
Malcolm (Mack) Walker, PE	Technical Advisor Permit / Regulatory Assistance Task Leader	Professional Engineer #30974	30	30
Anna Lantin, PE, CPESC, CPSWQ	Technical Advisor Existing Development / Retrofit	Certified Professional in Erosion and Sediment Control #2781; Certified Professional in Storm Water Quality #0079	21	12
Michael Barrett, Ph.D., PE	Technical Advisor	Professional Engineer #82582 (TX); #35561 (AZ)	35	
Glenn Lajoie, AICP	CEQA Documentation Task Leader	American Institute of Certified Planners #087288	25	23

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 written approval. COUNTY reserves the right to have any of A/E personnel removed from providing services to COUNTY under this AGREEMENT. COUNTY is not required to provide any reason for the request for removal of any A/E personnel.

2. 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’s Project Manager.

Please note that the aggregate money value of the sub-contractors work for any A/E on-call AGREEMENT with the COUNTY shall not constitute more than forty-nine percent (49%) of the total work under the A/E AGREEMENT.

Company Name & Address	Contact Name/Telephone Number	Project Function
Larry Walker Associates, Inc. Malcolm Walker, Principal	Ms. Karen Ashby 707 Fourth Street, Suite 200 Davis, CA 95616 530.753.6400 ext. 232 karena@lwa.com	Technical Advisement Assistant Project Management Permit / Regulatory Assistance Illegal Discharge / Connections Training Construction Auditable Management System
Michael Barrett, Ph.D., PE	Dr. Michael Barrett 5104 Beverly Skyline Austin, TX 78731 512 471 0935 mbarrett@mail.utexas.edu	Technical Advisor

3. ORGANIZATION CHART

