

CONTRACT MA-080-17010430
FOR
DISASTER-RELATED DEBRIS REMOVAL MONITORING SERVICES

THIS Contract Number MA-080-17010430 for Disaster-Related Debris Removal Monitoring Services (hereinafter referred to as "Contract") is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, (hereinafter referred to as "County"), the Orange County Flood Control District, a body corporate and politic (hereinafter referred to as "District"), and Witt O'Brien's, LLC, with a place of business at 2929 E. Imperial Hwy, Ste 290, Brea, CA 92821 (hereinafter referred to as "Contractor"), with County and Contractor sometimes individually referred to herein as "Party", or collectively referred to as "Parties".

RECITALS

WHEREAS, it is the desire of the County and District to obtain Professional Services for Disaster-Related Debris Removal Monitoring Services under this fixed-rate usage Contract for services; and,

WHEREAS, the Contractor responded to the County-issued Request for Proposals ("RFP") solicitation offering the complete scope of services as requested in the solicitation, and Contractor has represented that its proposed services shall meet or exceed the County and District's requirements and specifications as set forth herein with highly qualified and experienced personnel dedicated to provide said services to the County and District; and,

WHEREAS, Contractor agrees to provide Disaster-Related Debris Removal Monitoring Services as more specifically described in the Scope of Work, attached hereto as Attachment A, and incorporated herein; and,

WHEREAS, County agrees to pay Contractor the fees as further set forth in Contractor's Pricing, attached hereto as Attachment B, and incorporated herein; and,

WHEREAS, upon commencement and completion of all services as set forth herein and agreed to by the Parties, Contractor shall assume all responsibilities and obligations inherent with providing Services;

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the Contractor will provide Professional Services for Disaster-Related Debris Removal Monitoring Services under a fixed-rate usage Contract for services set forth in the Scope of Work, Attachment A, with Contractor to be reimbursed for certain costs and expenses as set forth in Contractor's Pricing, Attachment B to this Contract.
2. **Term of Contract:** The term of this Contract shall become effective upon execution of all necessary signatures or upon the approval of the Orange County Board of Supervisors (serving as the governing board for both the County and District), whichever occurs later, and shall continue for five (5) years from that date, unless otherwise terminated by County.
3. **Contingency of Funding:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon State legislative and budget approval; receipt of funds from, and/or obligation of funds by, the State of California to participating Cities and the County; and inclusion of sufficient funding for the services hereunder in the budget approved by participating Cities and the County for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

4. **Precedence:** The executed Contract will consist of this Contract and all attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the attachments.
5. **Contractor's Project Manager:** Contractor shall appoint a Project Manager, as specified in article 20, "Notices," to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to acceptance by the County and shall not be changed without the written consent of the County's Project Manager, which consent shall not be unreasonably withheld.
6. **County's Project Manager:** The County shall appoint a Project Manager, as specified in article 20, "Notices", to act as liaison between the County and the Contractor during the term of this Contract. The County's Project Manager shall provide oversight of Contractor's performance and coordinate the activities of the County staff assigned to work with the Contractor.

The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and key personnel. The County's Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within 14 calendar days after written notice by the County's Project Manager. The County's Project Manager shall review and accept the appointment of the replacement for the Contractor's Project Manager and key personnel. Said acceptance shall not be unreasonably withheld.

7. **Reports/Meetings:** The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County's Project Manager and the Contractor's Project Manager will meet at a County designated location to discuss the Contractor's performance and progress under this Contract, as directed or requested by the County's Project Manager. If directed by County, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is directed by the County for the purpose of monitoring progress under this Contract.
8. **Conflict of Interest:** The Contractor 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 and District. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier Contractors; and third parties associated with accomplishing work and services hereunder. The Contractor'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.
9. **Ownership of Documents:** The County and District has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become, and remain, the sole property of the County and District and may be used by the County and District as it may require without additional cost to the County or District. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County and District.
 - a. **Ownership Rights:** The originals of all artwork and other products and data produced for County Program under this Contract shall be delivered to, and become the property of the County and District. Copies may be made for Contractor's records, but shall not be furnished to others without written authorization from the County. Such deliverables shall become the sole property of the County and all rights in copyright therein shall be retained by the County.

10. **Title to Data:** All materials, documents, data or information obtained from the County data files or any medium furnished to the Contractor in the performance of this Contract 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 Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
11. **Breach of Contract:** The failure of the contractor to comply with any of the provisions, covenants or conditions of this contract shall be a material breach of this contract. In such event the County and District may, and in addition to any other remedies available at law, in equity, or otherwise specified in this contract:
 - a. Afford the contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this contract within which to cure the breach;
 - b. Discontinue payment to the contractor for and during the period in which the contractor is in breach; and
 - c. Offset against any monies billed by the contractor but yet unpaid by the County and District those monies disallowed pursuant to the above.
12. **Contract Disputes:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the County's Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent ("DPA"), as specified in article 20, "Notices," by way of the following process:
 - a. The Contractor shall submit to the County DPA a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
 - b. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith and in accordance with the executed contract, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
 - c. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract. Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions.
13. **Termination – Convenience of the County:** The County may terminate performance of work under this Contract for its convenience in whole, or, from time to time, in part if the County's Project Manager determines that a termination is in the County's interest. The County's Project Manager shall terminate the Contract by giving at least 10 business days and delivering to the Contractor a written notice of termination specifying the extent of the termination and the effective date thereof. The parties agree that, as to the terminated portion of the Contract, the Contract shall be deemed to remain in effect until such time as the termination settlement, if any, is concluded

and the Contract shall not be void. If Contract is terminated without cause, Company shall be responsible for any demobilization costs.

After receipt of a notice of termination and, except as directed by the County's Project Manager, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause.

Contractor shall:

- a. Stop work as specified in the notice of termination;
- b. Place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Contract;
- c. Terminate all orders and subcontracts to the extent they relate to the work terminated;
- d. Settle all outstanding liabilities and termination settlement proposals arising from the termination of any subcontracts, the approval or ratification of which will be final for purposes of this clause;
- e. As directed by the County's Project Manager transfer title and deliver to the County (a) work in process, completed work, supplies, and other material produced or acquired for the work terminated, and (b) completed or partially completed plans, information, and other property that, if the Contract had been completed, would be required to be furnished to the County;
- f. Complete performance of the work not terminated; and

At the completion of the Contractor's termination efforts, the Contractor may submit to the County's Project Manager a list indicating quantity and quality of termination inventory not previously disposed of and request instructions for disposition of the residual termination inventory.

After termination the Contractor shall submit a final termination settlement proposal to the County's Project Manager in a format acceptable to the County. The Contractor shall submit the proposal promptly, but no later than 60 days from the effective date of the termination, unless extended in writing by the County upon written request of the contractor within the 90-day period. However, if the County's Project Manager determines that the facts justify it, a termination settlement proposal may be received and acted on after the expiration of the filing period or any extension.

The Contractor and the County may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done, including a reasonable amount for accounting, legal, clerical and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data, and storage, transportation and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory, if any. However, the agreed amount may not exceed the total Contract price as reduced by (a) the amount of payment previously made and (b) the Contract price of work not terminated. The Contract shall be amended and the Contractor paid the agreed amount.

If the Contractor and the County fail to agree on the whole amount to be paid because of the termination of work, the County shall pay the Contractor the amounts determined by the County as follows, but without duplication of any amounts agreed on as set forth above:

- a. The Contract price for completed services accepted by the County (or sold or acquired) not previously paid for, adjusted for any savings and other charges; and
- b. Except to the extent that the County expressly assumes the risk of loss, the County shall exclude from the amounts payable to the Contractor the fair value, as determined by the agency/department, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the County.

The Contractor shall use generally accepted accounting principles and sound business practices in determining all costs claimed, agreed to, or determined under this clause. Such costs shall be allocable to the terminated Contract or portion thereof, allowable under applicable laws, regulations, generally accepted accounting principles and good business judgment and objectively reasonable.

The Contractor shall have the right to appeal, under the County's protest procedure, any determination made by the County, except that if the Contractor failed to submit the termination settlement proposal within the time provided and failed to request a time extension, there is no right of appeal.

In arriving at the amount due the Contractor under this clause, there shall be deducted:

- a. All payment to the Contractor under the terminated portion of this Contract;
- b. Any claim which the County has against the Contractor under this or any other contract; and
- c. The agreed price for or proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the County.

If the termination is partial, the Contractor may file a proposal with the County's Project Manager for an equitable adjustment of the price(s) of the continued portion of the Contract. The County's Project Manager shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 30 days from the effective date of termination unless extended in writing by the County's Project Manager.

The County may:

- a. Under the terms and conditions it prescribes, make partial payment and payments against costs incurred by the Contractor for their terminated portion of the Contract, if the County believes that the total of these payments will not exceed the amount to which the Contractor will be entitled; and
- b. If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the County upon demand.

In determining the amount payable to the Contractor and notwithstanding any other provision, if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, the County shall allow no profit and shall reduce the settlement to reflect the indicated rate of loss.

Unless otherwise provided in this Contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this Contract for three (3) years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this Contract. The Contractor shall make these records and documents available to the County, at the Contractor's office, at all reasonable times, without

any direct charge. If approved by the County, photographs, microphotographs, electronic storage, or other authentic reproductions may be maintained instead of original records and documents.

14. **Orderly Termination:** Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
15. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Project Manager and key personnel attached hereto, prior to submission to the County and District. Contractor agrees that County and District review is discretionary and Contractor shall not assume that the County and District will discover errors and/or omissions. If the County and/or District discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County, District, or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after County and District approval thereof, County and District approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County, District, and Contractor, and the reports, files or documents will be returned to Contractor for correction.
16. **Publication:** 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 Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County and District, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by all Parties.
17. **News/Information Release:** The Contractor agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this Contract or any subsequent amendment of, or effort under this Contract. Contractors must first obtain review and approval of said media contact from the County and District through the County's Project Manager. Any requests for interviews or information received by the media should be referred directly to the County. Contractors are not authorized to serve as a media spokespersons for County and District projects without first obtaining permission from the County Project Manager.
18. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract, and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to County or District. County and District assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
19. **Child Support Enforcement Requirements:** Contractor is required to comply with the child support enforcement requirements of the County. Failure of the Contractor to comply with all federal, state, and local 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 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

20. **Notices:** 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 terms of the work and services. 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 US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. 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.

County's Project Manager: OC Public Works/Operations & Maintenance
Attn: Lori Hanson
2301 N Glassell Street
Orange CA 92865
Phone: 714.955.0231
Email: Lori.Hanson@ocpw.ocgov.com

cc: OC Public/Procurement Section
Attn: Avelino Javier
2301 N Glassell Street
Orange CA 92865
Phone: 714.667.9627
Email: Avelino.Javier@ocpw.ocgov.com

Contractor: Witt Obrien's, LLC
Attn: Chuck Brannon
2929 E Imperial Hwy, Ste 290
Brea, CA 92821
Phone: 714.577.2100
Email: cbrannon@wittobriens.com

21. **Governing Law and Venue:** This Contract 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 Contract, 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. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
22. **Entire Contract:** This Contract, including Attachments and Exhibits, incorporated herein by this reference as if fully set forth, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County of Orange unless authorized by County and District in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County or District employee or agent, including but not limited to installers of software, shall not be valid or binding on County and District unless accepted in writing by County's Purchasing Agent or his designee.
23. **Amendments:** No alteration or variation of the terms of this Contract 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 and District in writing.

24. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
25. **Delivery:** Time of delivery of goods is of the essence in this Contract. County and District reserves the right to refuse any goods and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions. Acceptance of any part of the order shall not bind County and District to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Overshipments and undershipments shall be only as agreed to in writing by County and District. Delivery shall not be deemed to be complete until goods have actually been received and accepted in writing by County and District.
26. **Acceptance/Payment:** Unless otherwise agreed to in writing by the County and District, 1) acceptance shall not be deemed complete unless in writing and until all the goods have actually been received, inspected, and tested to the satisfaction of County and District, and 2) payment shall be made in arrears after satisfactory acceptance.
27. **Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and District and their indemnitees as identified in article "53" below, and as more fully described in article "53", harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County and District by reason of the failure of the goods to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
28. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, property right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in article "53" below, it shall indemnify, defend and hold County and District and their Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.

Unless otherwise expressly provided in this contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract.

29. **Assignment or Sub-Contracting:** 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 Contract nor any portion thereof may be assigned or sub-Contracted by Contractor without the express written consent of County and District. Any attempt by Contractor to assign or sub-Contract the performance or any portion thereof of this Contract without the express written consent of County and District shall be invalid and shall constitute a breach of this Contract.
30. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any sub-Contractors 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. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.

31. **Termination:** Notwithstanding any other provision of this Contract, County may at any time and without cause terminate in whole or in part, upon not less than (30) thirty days written notice to Contractor. Such termination shall be effected by delivery to Contractor a Notice of Termination specifying effective date of termination, whether Contract shall be terminated in whole or in part and if applicable the portion of work to be terminated.

Contractor shall immediately stop work in accordance with Notice of Termination and comply with any other direction as may be specified in Notice of Termination or provided subsequently by County. County shall pay Contractor for work completed and accepted by County prior to effective date of termination and such payment shall be Contractor's sole remedy.

In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of Contractor. Exercise by County of its right to terminate Contract shall relieve County of all further obligations.

Under no circumstances will Contractor be entitled to anticipatory or unearned profits, consequential damages or any other damages of any sort as a result of a termination in whole or in part under this provision. Contractor shall insert in all subcontracts that subcontractors shall stop work on the date of and if applicable the portion of work to be terminated in a Notice of Termination, and shall require sub-consultant's to insert the same condition in any lower tier subcontracts.

32. **Consent to Breach Not Waiver:** No term or provision of this Contract 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. 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.
33. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract 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 Contract does not preclude resort by either party to any other remedies provided by law.
34. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County and/or District. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County and/or District.
35. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County and District's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County and/or District required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.

36. **Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County and District that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County and District from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), which shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management upon review of Contractor's current audited financial report.

If the Contractor fails to maintain insurance acceptable to the County and District for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

Coverage	Contractor Minimum Limits
Commercial General Liability	\$1,000,000 limit per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 limit per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Professional Liability	\$5,000,000 per claims made or per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the **County of Orange and District**, their elected and appointed officials, officers, agents and employees as Additional Insureds.
- 2) A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange and District shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange and District, their elected and appointed officials, officers, agents and employees.

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange and District, their elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Contractor shall notify County and District in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County and/or District may suspend or terminate this Contract.

If Contractor's Professional Liability, is a "Claims Made" policy, Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to:

County of Orange, OC Public Works
Attn: Procurement Services
2301 N. Glassell Street, 2nd Floor
Orange, CA 92865

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CPO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County and District expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or

decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County and District shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

***Certificate Holder Information**

The County of Orange has contracted with Ebix RCS to monitor insurance certificates and endorsements for compliance with the above requirements. Upon initial award of a Contract, the certificate(s) and endorsement(s) should be forwarded to the agency/department address listed on the solicitation. The County will forward these documents to Ebix RCS on your behalf. Ebix RCS may contact you to advise you of deficiencies and request corrected documents. Please cooperate with their request for information or corrections in order for the County to continue your Contract through the expiration date.

37. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of article "53" below, indemnify, defend, and hold County and District harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
38. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County and District's specific written approval.
39. **Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County and District.
40. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County and District within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
41. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County-related records and District-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
42. **Compliance with Laws:** Contractor represents and warrants that the services to be provided under this Contract shall fully comply, at Contractor'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

services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of article 53 "Indemnification" below, Contractor agrees that it shall defend, indemnify and hold County and District and their Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

43. **Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation scheduling, packaging, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
44. **Pricing:** The Contract bid price shall include full compensation for providing all required goods, in accordance with required specifications, or services, as specified herein or when applicable, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
45. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
46. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract 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.
47. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
48. **Calendar Days:** Any reference to the word "day" or "days" herein mean calendar day or calendar days, respectively, unless otherwise expressly provided.
49. **Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.
50. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. 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 being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.
51. **Authority:** The parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
52. **Employee Eligibility Verification:** The Contractor 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 Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor 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. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County and District, and hold harmless, County and District, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County and District 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 Contract.

53. **Indemnification Provisions:** Contractor agrees to indemnify, defend with counsel approved in writing by County and District, 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 Indemnitees") and hold District, its elected and appointed officials, officers, employees, and agents, ("District" Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County and/or District by a court of competent jurisdiction because of the concurrent active negligence of County and/or District or County and/or District Indemnitees, Contractor, County, and District agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment. Neither party shall be liable for, and each party expressly waives and releases the other party from, any and all consequential, exemplary, indirect, punitive, or special damages.
54. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection and agrees to comply with Contractor's policies with respect to the protection of sensitive or confidential information.

The County and/or District reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.

55. **Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11426 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

56. **Contractor Personnel – Uniforms/Badges/Identification:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility anticipated under this Contract.
57. **Contractor Personnel – Drug Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:
- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
 - B. Establish a drug-free awareness program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - The dangers of drug abuse in the workplace;
 - The organization's policy of maintaining a drug-free workplace;
 - Any available counseling, rehabilitation and employee assistance programs; and
 - Penalties that may be imposed upon employees for drug abuse violations.
 - C. Provide as required by Government Code Section 8355(c) that every employee who works under this Contract:
 - Will receive a copy of the company's drug-free policy statement; and
 - Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

- A. The Contractor has made false certification, or
- B. The Contractor violates the certification by failing to carry out the requirements as noted above

58. **Contractor's Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three years after final payment is received from the County and District. Storage of records in another County will require written approval from the County's Purchasing Agent or his designee.
59. **Americans with Disabilities Act (ADA):** Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.
60. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
61. **Cooperative Agreement:** The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use this Contract will be responsible for issuing their own purchase documents/price agreements, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any Contract entered into with another agency or entity that is entered into as an extension of this Contract a Contract clause that will hold harmless the County of Orange and Orange County Flood Control District from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this Contract. Failure to do so will be considered a material breach of this Contract and grounds for immediate Contract termination. The cooperative entities are responsible for obtaining all certificates of insurance required. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.
- The Contractor shall be required to maintain a list of the cooperative entities using this Contract. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.
62. **Conflict of Interest:** The Contractor 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 and District. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier Consultants; and third parties associated with accomplishing work and services hereunder. The Contractor'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 and District.
63. **Material Safety Data Sheets (MSDS):** The Contractor is required to provide a completed Material Safety Data Sheet (MSDS) for each hazardous substance provided to the County and District under the Contract. This includes hazardous substances that are not directly included in the Contract, but are included in the goods or services provided by the Contractor to the County and District. The provision of the MSDS must be in accordance with the requirements of California Labor Code Sections 6380 through 6399, General Industry Safety Order Section 5194,

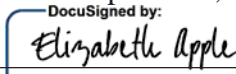
and Title 8, California Code of Regulations. The MSDS for each substance must be sent to the County Project Manager and must also be sent to:

County of Orange CEO/Risk Management
Attn: Safety and Loss Prevention Program
PO Box 327
Santa Ana, CA 92702

64. **Usage:** No guarantee is given by the County and District to the contractor regarding usage of this contract. Usage figures, if provided, are approximate, based upon the last usage. The contractor agrees to supply services and/or commodities requested, as needed by the County and District, at prices listed in the contract, regardless of quantity requested.
65. **Usage Reports:** Upon County and/or District request, Contractor shall submit usage reports to the County which shall include, at minimum, summarized quantities, item descriptions (including Manufacturer/Part No.). The usage report shall be in a format specified by the County.

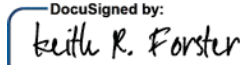
IN WITNESS WHEREOF, the PARTIES hereto have executed this CONTRACT on the dates opposite their respective signatures:

Date: 10/18/2016

WITT O'BRIEN'S, LLC.
a Delaware Corporation,
By 
Signature 0DC1A6862E2441F...
Elizabeth Apple EA, Controller
Print Name & Title

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

Date: 10/18/2016

By 
Signature 659907F372734F1...
Keith R. Forster CFO
Print Name & Title

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

Date: _____


COUNTY OF ORANGE,
a political subdivision of the State of California
By _____
Signature

Print Name & Title

Date: _____

ORANGE COUNTY FLOOD CONTROL DISTRICT,
a body corporate and politic
By _____
Signature

Print Name & Title

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

ATTACHMENT A SCOPE OF WORK

I. Background

In efforts to continue the development of a proactive disaster-related debris management plan, the County and District are establishing service contracts and mutual agreements within its Operational Area to streamline emergency debris removal operations in the event of a major disaster, such as an earthquake, major wildfire, storm or any other natural and/or man-made disaster. This includes securing contracted services to collect, process and dispose of a variety of debris expected to be generated in a major event. In order to recuperate a percentage of these contract costs from Federal or State emergency management grants, the monitoring of debris removal operations must be conducted by an independent resource per the Federal Emergency Management Agency (FEMA) Public Assistance claim reimbursement process. The goal of monitoring debris removal operations is to ensure that work performed is within the scope of work required by a debris removal contract and to document removal operations for FEMA Public Assistance (PA), Federal Highway Administration (FHWA) and Cal OES Hazard Mitigation grant reimbursements. Regular reporting helps to promote quality assurance and provides the County and District applicant agent with a consistent accounting of operations in the field. Failure to document eligible work and costs may jeopardize eligible reimbursements.

Monitoring debris removal work involves constant observation of crews to ensure that workers are performing eligible work in accordance with PA guidelines and verify compliance with all applicable Federal, State and local regulations. The debris monitoring Contractor must have the capacity to manage a major workforce and to cover the expenses associated with a major recovery operation prior to initial payment and between subsequent payments, as well to provide all required bonds and insurance per FEMA, FHWA, Cal OES and County policies. The Contractor must have an established management team, and an established network of resources to provide the necessary equipment and personnel. The Contractor must adhere to all federal, state and local laws, codes and ordinances, and assist the County and District with recovering Contract expenses through the FEMA Public Assistance claim reimbursement process.

The County and District's objective is to retain contractual resources (Contractor) for debris removal monitoring services, but reserves the right to use the County and District's and participating cities' forces and equipment if necessary. This Contract for the County and District's monitoring of disaster-related debris management will be a usage Contract that shall be utilized only in the face of an emergency. No compensation will accrue to the Contractor unless and until the Contract is utilized by the County and District either in anticipation of a natural disaster or after such a disaster.

II. General Requirements

- A. The purpose of this Contract is to provide Federal and State mandated monitoring of disaster-related debris management services for the County and District and its participating cities. To prevent conflict of interest, potential contract monitoring services must not have a material interest, either financial or otherwise, in the debris removal contract or contractor. This Contract may be activated for any County, State and/or Federally declared disaster events. The Scope of Work shall include, but not limited to the following:
 1. Provide public information assistance to County and District via reports which capture daily activities and debris removal operations which can facilitate reimbursement grants including FEMA, FHWA, Cal OES or other funding opportunities.
 2. Documentation of operations above and beyond FEMA grant requirements as needed for costs reimbursement eligibility.

*County of Orange, OC Public Works
Witt O'Brien's, LLC*

MA-080-17010430

3. Debris removal monitoring services per FEMA Public Assistance policy and procedures including; determining the eligibility (or ineligibility) of debris for removal, mandated special considerations, site development and restoration, certification of hauling vehicles, compliance with State and Federal regulations, site safety, verification of contracted removal services, hazardous trees and map locations.
4. Provide and submit daily monitoring reports which capture required information per FEMA Public Assistance policy and procedures including: load capacities, load quantities, debris management, site operations, public and site safety, collection locations, debris types and amounts.
5. Maintain an accurate database that organizes debris management with disposal data, vehicle certifications, project records, photographs and map locations.
6. Complete and physically control load tickets (in towers and in the field).
7. Provide a paperless, electronic (handheld device) automated debris management system (ADMS) that shall create load tickets automatically.
8. Ensure hazardous waste is not mixed in with loads.
9. Ensure that all debris is removed from trucks at the Temporary Debris Storage and Reduction (TDSR) site(s).
10. Ensure that only debris specified in the scope of work is collected.
11. Ensure daily loads meet permit requirements.
12. Assure that debris contractor work is within the assigned scope of work.
13. Identify work for potential eligibility (or ineligibility) per FEMA guidelines.
14. Validate hazardous trees including hangers, leaners and stumps.
15. Monitor site development and restoration of TDSR site(s).
16. Ensure that work stops immediately in an area where human remains or potential archeological deposits are discovered.
17. Immediately report to County Debris Management Coordinator or designee if debris removal work does not comply with all local ordinances as well as State and Federal regulations.
18. Immediately report to County Debris Management Coordinator or designee if contractor personnel or public safety standards are not being followed.
19. Immediately report to County Debris Management Coordinator or designee if improper equipment is utilized, equipment is misused or contractor noncompliance.
20. Immediately report to County Debris Management Coordinator or designee if completion schedules are not on task.
21. Accurately measure and certify hauling vehicle capacities.

*County of Orange, OC Public Works
Witt O'Brien's, LLC*

MA-080-17010430

22. Certify hauling vehicles on a regular basis.
 23. Ensure accurate credit for haul loads.
 24. Ensure that hauling vehicles are not artificially loaded or enhanced to maximize reimbursement.
- B. Contracted debris monitors must have experience working on construction sites, be skilled at FEMA reimbursement procedures and have knowledge of safety regulations. There must be no conflict of interest between the monitoring and debris removal contractors. The Contractor shall furnish all necessary personnel, material, equipment, labor, supervision, facilities, and shall provide all services necessary for, or incidental to, the performance of all work as defined in the Scope of Work. The Contractor shall supervise and direct all work, workers and equipment. The Contractor shall be duly licensed to perform the work in accordance with all federal, state and local requirements. Copies of all permits and licenses shall be submitted to the County and District as soon as available. The Contractor is solely responsible for the means, methods, techniques, sequences, and safety procedures used. A sample of reporting requirements to substantiate costs is required to be submitted to FEMA for approval.
- C. As this is a usage Contract, the quantity of work required is not known at this time. Payment shall be made at the negotiated contracted rates specified in Attachment B. The output shall be verified by the County and District in the daily operational report. All rates are to include all related costs, inclusive of the cost of personal protective clothing (to include hardhats, gloves, eye protection and steel-toed boots), fringe benefits, hand tools, supervision, transportation, traffic control and any other costs.
- D. When a major disaster occurs or is imminent, the County and District shall contact the Contractor to advise it of the County and District's intent to request services. The Contractor shall employ and maintain a qualified and accessible Project Manager who shall have the full authority to act on behalf of the Contractor. All communications given to the supervisor in writing by the County and District shall be binding. The Contractor shall report to the County's Debris Management Coordinator within 24 hours of the Notice to Proceed for each work order directive issued.
- E. The Contractor shall assign and provide an Operations Manager to the County's Debris Management Center to serve as the principal liaison between the County's Debris Management Coordinator (or designee) and the Contractor's forces. The assigned Operations Manager must be knowledgeable of all facts of the Contractor's operations and have authority in writing to commit the Contractor. The Operations Manager shall be on call 24 hours per day, seven days per week and shall have electronic linkage capability for transmitting and receiving relevant contractual information and make arrangements for on-site accommodations. This linkage shall provide immediate contact via cell phone, fax machine, and have Internet capabilities. The Operations Manager shall participate in daily meetings and disaster exercises, functioning as a source to provide essential element information. The Operations Manager shall report to the County's Debris Management Coordinator or designee. Contractor will be responsible for hiring, training, deploying, scheduling and monitoring the activities of its collection monitors. Contractor shall immediately remove and replace any employee immediately for conduct or actions not keeping within the agreement.
- F. This Contract for debris removal monitoring will be on a usage basis for the purpose of having Contractor immediately available and committed to assisting the County and District in the aftermath of a major disaster. Contractor under this Contract shall serve as a grant eligibility expert, debris removal monitor and verifier of field debris removal operations. The Contractor shall disclose present and future debris removal monitoring obligations throughout the term of

this Contract and shall provide reasonable assurance to the County and District that such obligations will not preclude the Contractor from performing the required work and meeting its obligation under the Contract. Such disclosure shall be provided to the County and District in the proposal. The Contractor shall, to the extent practical, give priority to utilizing local subcontractors, equipment rentals, etc., from the County of Orange and the surrounding areas.

III. Debris Management

This Contract is for debris removal monitoring services required by Federal or State reimbursement grant programs including the FEMA Public Assistance Program, Federal Highway Administration, Cal OES Hazard Mitigation Program or other applicable funding opportunities. The primary objective of the debris monitoring Contract is to provide daily assistance to the County and District with grant eligibility requirements, documentation of debris removal operations and verification of work performed by debris removal contracts.

The Contractor will provide TDSR site monitors and spotters to observe and document the unloading, processing and loading of debris. This responsibility includes completing ADMS load tickets and certifying the information is complete and accurate. Contractor must be able to estimate quantities, differentiate between eligible/non-eligible types of debris, hazardous waste protocols and properly fill out load tickets. They should also be able to identify types of trucks, hauling capabilities and differentiate between hand-loading versus mechanical loading. Contractor shall provide a sufficient number of trained debris monitors and field supervisors to accommodate the volume of debris to be removed at loading sites, debris management sites and final disposal sites.

A. Monitoring Documentation

1. Monitoring Contractor shall provide staff that is trained on debris removal monitoring requirements for Federal and State reimbursement grants including the FEMA Public Assistance Program, FHWA and Cal OES Hazard Mitigation Program. The key elements of information that are needed to verify the debris removal contract's scope of work and determine eligibility are:

- i. Type of debris
- ii. Eligible (or ineligible) debris
- iii. FEMA designated special considerations
- iv. Amount of debris collected
- v. Original collection location

In accordance with FEMA Public Assistance guidelines, Contractor shall capture the same information as FEMA Sample Monitoring Forms found in FEMA Publication 327 (See Attachment C). If FEMA provides funding for the debris contract, a sample of reporting requirements outlined in the contract in order to substantiate eligible costs is required. Contractor shall submit field documentation which is required for eligibility including:

- vi. Load tickets
- vii. Debris collected from curbside and/or collection centers
- viii. Debris accepted at TDSR sites and/or final disposition

- ix. Debris recycled/reduced at TDSR sites and taken to final disposition
- x. Any operational or safety issues
- xi. Truck certification worksheets

The Contractor shall prepare and submit daily monitoring reports which capture required information per FEMA Public Assistance policy and procedures. The Contractor shall maintain an accurate database that organizes debris management with disposal data, vehicle certifications, project records, photographs and map locations. Field documentation may also include labor and equipment timesheets, labor and benefits rates, personnel pay policy, invoices and others that may be needed for eligibility.

B. Automated Debris Management System

The Contractor shall provide a paperless, electronic (handheld device) Automated Debris Management System (ADMS) to create load tickets automatically; eliminating the need for hand written tickets. Preferable features to the Contractor ADMS include a sharable database accessible to County and District and debris removal contractor, plus GPS or GIS mapping technology. Automated load tickets must capture required information per FEMA 327 guidelines.

C. Field Monitoring

Contracted field monitors should be knowledgeable in the principles and practices of construction including equipment usage, capacity, types of debris, load tickets, hand-loading, mechanical loading and safety protocols. Contractor shall validate and map hazardous trees including hangers, leaners and stumps. Contractor shall stop work immediately in an area where human remains or potential archeological deposits are discovered. Field monitoring also includes monitoring debris removal to ensure compliance with contracted scope of work and ascertain that debris collected and work identified is potentially eligible (or ineligible) per FEMA guidelines. Classification of debris is as follows:

1. Vegetative Debris: Vegetative debris includes but is not limited to damaged and disturbed trees; broken, partially broken and severed tree limbs; tree stumps; tree trunks; bushes and shrubs; brush; and other leafy material.
2. Construction and Demolition (C&D) Debris: C&D debris includes but is not limited to lumber, metal products, sheet rock, non-asbestos roofing and concrete.
3. Non C&D Debris: Non C&D debris includes but is not limited to asbestos roofing, carpeting, plastic, glass, rubber products, cloth items and treated wood building materials.
4. White Goods: White Goods are large household appliances such as refrigerators, freezers, air conditioners, stoves, ovens, washing machines, dryers, water heaters, etc.
5. Household Hazardous Waste (HHW): HHW is waste with properties that make it potentially harmful to human health or the environment such as but not limited to paint products, pesticides, fertilizers, and other debris requiring special removal, handling and disposal processing, and known or suspected hazardous material such as asbestos, lead-based paint, and electrical transformers. Coordination of hazardous debris removal is the responsibility of the County and District. Known or suspected HHW that mistakenly enters the waste stream shall be placed in an appropriate storage area for proper disposal.

6. Soil, Mud and Sand: Earthquakes, floods and storm surges often deposit soil, mud, and sand on improved public property and public rights-of way. Facilities commonly impacted by this type of debris may include streets, sidewalks, drainage facilities, culverts and pipes. The Contractor shall remove storm deposited soil, mud and sand debris from public property and rights-of-way as directed by the County and District.
7. Putrescent Debris: The Contractor shall collect, remove, transport and dispose of dead livestock, fowl, large animals, and domestic pets from public rights-of-way and other public properties, as identified by the County and District, in accordance with health and regulatory requirements.
8. Ash: When handling ash, the Contractor will be required to "wet down" the ash to prevent dust problems.
9. Chips and Mulch: Chips and mulch are the end products of chipping and grinding clean woody debris. Proper disposal of chips and mulch (non-landfill disposal) is an environmentally sound use of the material.
10. Other Debris: Other debris includes but is not limited to tires, small motorized equipment, electronic waste, propane tanks, and petroleum products.

In part of recovery efforts, Contractor shall monitor TDSR site(s) development and restoration. Field monitors will report directly to County's Debris Management Coordinator or designee if the following are observed:

11. Improper equipment is used or utilized
12. Contractor personnel safety standards are not followed
13. General public safety standards are not followed
14. Completion schedules are not on task
15. Contractor noncompliance
16. Debris removal work does not comply with all local ordinances as well as State and federal regulations.

D. Load Monitoring and Truck Certification

Contract shall monitor loads for inaccurate capacities, low/light loads, overloads, changing truck numbers, reduced capacity, increased truck weight, wet debris, multiple counting of the same load and ineligible debris. Contractor must be aware of FEMA Special Monitoring Issues on hand-loading, mechanical loading, trailers and trucks with no tailgates or no solid tailgates. Contractor shall accurately measure and certify truck capacities on a regular basis with frequent recertification on all trucks. Monitoring also includes accurate accounting of truck load credits. The primary debris tracking document is load ticket. Load tickets track debris from the original collection point to the TDSR, or landfill. Contract shall provide load tickets with required FEMA information. (See sample ticket in attachment C) Contractor will monitor and document loads for the following:

1. Ensure that trucks are not artificially loaded to maximize reimbursement (e.g., debris is wetted, debris is fluffed – not compacted).

*County of Orange, OC Public Works
Witt O'Brien's, LLC*

MA-080-17010430

2. Ensure that hazardous waste is not mixed in with loads
3. Ensure that all debris is removed from trucks at the TDSR sites
4. Ensure that only debris specified in the scope of work is collected
5. Properly and accurately complete; plus physically control load tickets in tower and in the field
6. Ensure daily loads meet permit requirements
7. Completed truck worksheets with accurate measurements and frequent certifications
8. Accurate accounting of truck credits

IV. Training and Pre-Event Workshops

The Contractor shall provide pre-event assistance through trainings, workshops or meetings with County and District and debris removal contractors at no cost to the County and District. Topics may include, but are not limited to;

- A. Debris Management Plan;
- B. Establish/review applicable policies and procedures;
- C. Recovery systems training (i.e. – Automated Debris Management System (ADMS));
- D. GIS assets and systems;
- E. Billing protocols;
- F. Technical assistance administration; and
- G. Other area-specific operational considerations and caveats.

County of Orange, OC Public Works
Witt O'Brien's, LLC

MA-080-17010430

ATTACHMENT B CONTRACTOR'S PRICING

- I. Compensation:** This is a usage Contract between the County, District, and Contractor for Professional Services, Disaster-Related Debris Removal Monitoring Services, as provided in Attachment A, "Scope of Work".

The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials 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 the Contractor of all its duties and obligations hereunder. The County and District shall have no obligation to pay any sum, should the Contract never be utilized.

- II. Payment Schedule:** The County and District will pay the following fees in accordance with the provisions of this Contract; partial payment may be allowed at the County Project Manager's discretion.

A. Classification Rates:

Classification/Titles	Hourly Rate
1. Senior Principal/Project Manager	No Charge
2. Principal/Project Manager	\$70.00
3. Operations Manager	\$58.00
4. Operation Specialist	\$49.00
5. Field Supervisor	\$49.00
6. Disposal Site Supervisor	\$37.00
7. Field/Roving Monitor	\$37.00
8. Collection Site Monitor	\$37.00
9. Debris Data and Reports Manager	\$55.00
10. GIS Analyst/Mapping Coordinator	\$65.00
11. Administrative Support	\$25.00
12. Call Center Operator	\$32.00
13. Debris Load Ticket Data Entry Clerk	\$25.00
14. Debris Management FEMA/Planner/Trainer	\$95.00
OTHER OFFERED POSITIONS (PA/PLANNING)	
1. Grants Project Manager	\$150.00
2. Sr. Grant Management Specialist	\$130.00
3. Grants Management Specialist	\$115.00
4. Hazard Mitigation Specialist	\$130.00
5. Insurance Specialist	\$130.00
6. Consulting Project Manager	\$180.00
7. Senior Planner	\$150.00
8. Planner	\$120.00
9. Subject Matter Expert	\$170.00

- III. Firm Discount and Pricing Structure:** Contractor 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. Contractor agrees that no price increases shall be passed along to the County and District during the term of this Contract not otherwise specified and provided for within this Contract.

County of Orange, OC Public Works
Witt O'Brien's, LLC

MA-080-17010430

- IV. **Payment Terms:** Invoices are to be submitted in arrears, after services have been completed and funding disbursement of the individual projects, to the address specified below. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to County of Orange. Invoices shall be verified and approved by the County and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange or participating Cities for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

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

- V. **Payment (Electronic Funds Transfer (EFT)):** The County of Orange offers Contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT Authorization Form. To request a form, please contact the Agency/Department representative listed in the bid. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.

- VI. **Invoicing Instructions:** The Contractor will provide an invoice on the Contractor's letterhead. Each invoice will have a unique number and will include the following information:

- a. Contractor's name and address
- b. Contractor's remittance address, if different from a., above
- c. Name of County agency/department
- d. Delivery/service address
- e. Contract number
- f. Service Date
- g. Description of Tasks/Services (as specified above)
- h. Hourly Rate, Classification/Title and Number of Hours for each Task/Service
- i. Total
- j. Taxpayer ID number

The responsibility for providing an acceptable invoice to the participating County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

Invoices and support documentation are to be forwarded to:

OC Public Works/Operations & Maintenance
2301 N. Glassell Street, 2nd Floor
Orange, CA 92865

*County of Orange, OC Public Works
Witt O'Brien's, LLC*

MA-080-17010430

**ATTACHMENT C
STAFFING PLAN**

I. Key Personnel to perform Contract duties

Name	Classification/Designation	Years of Experience	Contractor or Subcontractor
Kevan Parker	Project Manager	35	Contractor
Ryan Booth	Operations Manager	11	Contractor
Stephen Powell	Operations Manager	10	Contractor
Darin Workman	Data Manager	10	Contractor
Charles Bryant	Debris Management FEMA Planner/Trainer	35	Contractor
Lynne Storz	Debris Management FEMA Planner/Trainer	26	Contractor
Steven Cadenhead	Field Supervisor	10	Contractor
Chris Denney	Billing/Invoice Analyst	10	Contractor
Curt Johnson	ADMS Specialist	10	Contractor
Alexandra Hestilow	GIS Specialist	5	Contractor
Andy Janes	Project Coordinator	15	Contractor

Contractor understands that those individuals represented as assigned to the project must remain working on the project throughout the duration of the project unless otherwise requested or approved in writing by the County and District. Substitution or addition of Contractor's Key Personnel in any given classification/title shall be allowed only with prior written approval of the County Project Manager. During the term of this Contract, Contractor shall maintain a business office in Southern California.

The Contractor may reserve the right to involve other Contractor 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 the County and District's written approval. County and District reserves the right to have any of Contractor personnel removed from providing services to the County and District under this Contract. The County and District are not required to provide any reason for the request for removal of any Contractor personnel.

II. Subcontractor(s)

In accordance with Article 30, "Assignment or Subcontracting," listed below are subcontractor(s) anticipated by Contractor to perform services specified in Attachment A. Substitution or addition of Contractor's subcontractors in any given project function shall be allowed only with prior written approval of the County Project Manager.

Company Name & Address	Contact Name & Telephone Number	Project Function
N/A	N/A	N/A